



Court File No. CV-24-00722252-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE)
JUSTICE MICHAEL A. PENNY)
FRIDAY, THE 21ST
DAY OF JUNE, 2024

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, c. C 36, AS AMENDED

AND IN THE MATTER OF NEVADA COPPER, INC.,
NEVADA COPPER CORP., 0607792 B.C. LTD., LION IRON CORP.,
NC FARMS LLC AND NC DITCH COMPANY LLC (the "**Debtors**")

APPLICATION OF NEVADA COPPER, INC.
UNDER SECTION 46 OF THE
COMPANIES' CREDITORS ARRANGEMENT ACT

SUPPLEMENTAL ORDER
(FOREIGN MAIN PROCEEDING)

THIS APPLICATION, made by Nevada Copper, Inc., in its capacity as the foreign representative (the "**Foreign Representative**") of the Debtors, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") for an Order substantially in the form enclosed in the Application Record, was heard this day by judicial video conference via Zoom in Toronto, Ontario.

ON READING the Notice of Application, issued June 17, 2024, the Amended Notice of Application, filed June 19, 2024, the affidavit of Gregory J. Martin sworn June 19, 2024 and the Exhibits thereto (the "**Martin Affidavit**"), the factum of the Foreign Representative dated June 20, 2024, the consent of Alvarez & Marsal Canada Inc. ("**A&M**") to act as the proposed Court-appointed information officer (in such capacity, the "**Proposed Information Officer**"), the pre-filing report of the Proposed Information Officer dated June 20, 2024, each filed, and upon being provided with copies of the documents required by section 46 of the CCAA,

AND UPON HEARING the submissions of counsel for the Foreign Representative, counsel for the Proposed Information Officer, and such other counsel and parties as listed on the Participant Information Form, with no one else appearing although duly served as appears from the affidavit of service of Melissa Losco sworn June 20, 2024, filed:

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Application and the Application Record is hereby abridged and validated so that this Application is properly returnable today and hereby dispenses with further service thereof.

INITIAL RECOGNITION ORDER

2. **THIS COURT ORDERS** that any capitalized terms not otherwise defined herein shall have the meanings given to such terms in the Initial Recognition Order (Foreign Main Proceeding) dated June 21, 2024 (the “**Recognition Order**”) and the Martin Affidavit, as applicable.

3. **THIS COURT ORDERS** that the provisions of this Supplemental Order shall be interpreted in a manner complementary and supplementary to the provisions of the Recognition Order, provided that in the event of a conflict between the provisions of this Supplemental Order and the provisions of the Recognition Order, the provisions of the Recognition Order shall govern.

RECOGNITION OF FOREIGN ORDERS

4. **THIS COURT ORDERS** that the following orders (collectively, the “**Foreign Orders**”) of the United States Bankruptcy Court for the District of Nevada (the “**U.S. Court**”) made in the Foreign Proceeding are hereby recognized and given full force and effect in all provinces and territories of Canada pursuant to Section 49 of the CCAA:

- (a) Order Authorizing Nevada Copper Inc., to Act as Foreign Representative of the Debtors;

- (b) Order Directing Joint Administration of Debtors' Related Chapter 11 Cases Under Federal Rule of Bankruptcy Procedure 1015(b) and Local Rule of Bankruptcy Practice 1015;
- (c) Order Authorizing the Debtors to Continue to (I) Use Their Existing Cash Management System, (II) Use and Maintain Existing Bank Accounts, (III) Continue Intercompany Transactions, (IV) Use Their Existing Business Forms, and (V) Granting Related Relief;
- (d) Interim Order (I) Authorizing the Debtors to (A) Continue their Prepetition Insurance Policies, (B) Continue their Prepetition Surety Bond Program, and (C) Enter into New Premium Financing Agreements and (II) Granting Related Relief;
- (e) Order Authorizing the Debtors to (I) Pay Prepetition Employee Wages, Salaries, and Other Compensation, (II) Reimburse Prepetition Business Expenses, (III) Continue Prepetition Employee Bene-fits Programs, (IV) Make Payments for Which Prepetition Payroll Deductions Have Been Withheld and Pay Certain Employment-Related Taxes, (V) Pay Amounts that Were Awarded Under the Debtors' 2023 Short Term Incentive Program, and (VI) Pay All Costs and Expenses Incident to the Foregoing; and
- (f) Interim Order (I) Authorizing the Debtors to (A) Obtain Postpetition Financing, (B) Grant Liens, Including Senior Secured Priming Liens, and Superpriority Administrative Expense Claims, and (C) Utilize Cash Collateral; (II) Granting Adequate Protection to Certain Prepetition Secured Parties; (III) Modifying the Automatic Stay; (IV) Scheduling Final Hearing; and (V) Granting Related Relief (the "**U.S. Interim DIP Order**").

provided, however, that in the event of any conflict between the terms of the Foreign Orders and the Orders of this Court made in the within proceedings, the Orders of this Court shall govern with respect to Property (as defined below) in Canada.

APPOINTMENT OF INFORMATION OFFICER

5. **THIS COURT ORDERS** that Alvarez & Marsal Canada Inc. is hereby appointed as an officer of this Court (in such capacity, the “**Information Officer**”), with the powers and duties set out herein.

NO PROCEEDINGS AGAINST THE DEBTORS OR THE PROPERTY

6. **THIS COURT ORDERS** that until such date as this Court may order (the “**Stay Period**”) no proceeding or enforcement process in any court or tribunal in Canada (each, a “**Proceeding**”) shall be commenced or continued against or in respect of the Debtors or affecting their business (the “**Business**”) or their current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the “**Property**”), except the written consent of the applicable Debtor and the Information Officer or with leave of this Court, and any and all Proceedings currently under way against or in respect of any of the Debtors or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

7. **THIS COURT ORDERS** that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities or person (all of the foregoing, collectively being “**Persons**” and each being a “**Person**”) against or in respect of the Debtors, or affecting the Business or the Property, are hereby stayed and suspended except with leave of this Court, provided that nothing in this Order shall: (i) prevent the assertion of or the exercise of rights and remedies outside of Canada; (ii) empower any of the Debtors to carry on any business in Canada which that Debtor is not lawfully entitled to carry on; (iii) affect such investigations or Proceedings by a regulatory body as are permitted by section 11.1 of the CCAA; (iv) prevent the filing of any registration to preserve or perfect a security interest; or (v) prevent the registration of a claim for lien.

NO INTERFERENCE WITH RIGHTS

8. **THIS COURT ORDERS** that during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right,

renewal right, contract, agreement, licence or permit in favour of or held by any of the Debtors and affecting the Business or Property in Canada, except with the written consent of the applicable Debtor and the Information Officer, or with leave of this Court.

ADDITIONAL PROTECTIONS

9. **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with the Debtors or statutory or regulatory mandates for the supply of goods and/or services in Canada, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services provided in respect of the Property or Business of the Debtors, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Debtors, and that the Debtors shall be entitled to the continued use in Canada of their current premises, telephone numbers, facsimile numbers, email addresses, internet addresses and domain names.

10. **THIS COURT ORDERS** that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the Debtors with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the Debtors whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations.

11. **THIS COURT ORDERS** that no Proceeding shall be commenced or continued against or in respect of the Information Officer, except with leave of this Court. In addition to the rights and protections afforded the Information Officer herein, or as an officer of this Court, the Information Officer shall have the benefit of all of the rights and protections afforded to a Monitor under the CCAA, and shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part.

OTHER PROVISIONS RELATING TO INFORMATION OFFICER

12. **THIS COURT ORDERS** that the Information Officer:

- (a) is hereby authorized to provide such assistance to the Foreign Representative in the performance of its duties as the Foreign Representative may reasonably request;
- (b) shall report to this Court at such times and intervals that the Information Officer considers appropriate with respect to the status of these proceedings and the status of the Foreign Proceedings, which reports may include information relating to the Property, the Business, or such other matters as may be relevant to the proceedings herein;
- (c) shall have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the Debtors, to the extent that is necessary to perform its duties arising under this Order; and
- (d) shall be at liberty to engage independent legal counsel or such other persons as the Information Officer deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order.

13. **THIS COURT ORDERS** that the Debtors and the Foreign Representative shall: (i) advise the Information Officer of all material steps taken by the Debtors or the Foreign Representative in these proceedings or in the Foreign Proceedings; (ii) co-operate fully with the Information Officer in the exercise of its powers and discharge of its obligations; and (iii) provide the Information Officer with the assistance that is necessary to enable the Information Officer to adequately carry out its functions.

14. **THIS COURT ORDERS** that the Information Officer shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof.

15. **THIS COURT ORDERS** that the Information Officer: (i) shall post on its website all Orders of this Court made in these proceedings, all reports of the Information Officer filed herein, and such other materials as this Court may order from time to time; and (ii) may post on its website any other materials that the Information Officer deems appropriate.

16. **THIS COURT ORDERS** that the Information Officer may provide any creditor of a Debtor with information provided by the Debtors in response to reasonable requests for information made in writing by such creditor addressed to the Information Officer. The Information Officer shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Information Officer has been advised by the Debtors is privileged or confidential, the Information Officer shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Information Officer, the Foreign Representative and the relevant Debtors may agree.

17. **THIS COURT ORDERS** that the Information Officer and counsel to the Information Officer shall be paid by the Debtors their reasonable fees and disbursements incurred in respect of these proceedings, both before and after the making of this Order, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts. The Debtors are hereby authorized and directed to pay the accounts of the Information Officer and counsel for the Information Officer on a weekly basis or such other frequency as the parties may agree, and, in addition, the Debtors are hereby authorized to pay to the Information Officer and counsel to the Information Officer, reasonable retainers to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.

18. **THIS COURT ORDERS** that the Information Officer and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Information Officer and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice, and the accounts of the Information Officer and its counsel shall not be subject to approval in the Foreign Proceeding.

19. **THIS COURT ORDERS** that the Information Officer, counsel to the Information Officer and Canadian counsel to the Debtors, Torys LLP, shall be entitled to the benefit of

and are hereby granted a charge (the “**Administration Charge**”) on the Property in Canada, which charge shall not exceed an aggregate amount of C\$500,000, as security for their professional fees and disbursements incurred in respect of these proceedings, both before and after the making of this Order. The Administration Charge shall have the priority set out in paragraphs 21 and 23 hereof.

INTERIM FINANCING

20. **THIS COURT ORDERS** that the DIP Agent (as defined in the U.S. Interim DIP Order), for the benefit of itself and the DIP Lenders (as defined in the U.S. Interim DIP Order), shall be entitled to the benefit of and is hereby granted a charge (the “**DIP Lender’s Charge**”) on the Property in Canada, which DIP Lender's Charge shall be consistent with the liens and charges created by the U.S. Interim DIP Order (including with respect to conditions applicable to Avoidance Actions and WCF Collateral, as those terms are defined in the U.S. Interim DIP Order), provided however that the DIP Lender's Charge (i) shall not secure an obligation that exists before the Petition Date, and (ii) with respect to the Property in Canada, shall have the priority set out in paragraphs 21 and 23 hereof, and further provided that the DIP Lender’s Charge shall not be enforced except with leave of this Court.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

21. **THIS COURT ORDERS** that the priorities of the Administration Charge and the DIP Lender’s Charge, as among them, shall be as follows:

First – Administration Charge (to the maximum amount of \$500,000); and

Second – DIP Lender’s Charge.

22. **THIS COURT ORDERS** that the filing, registration or perfection of the Administration Charge or the DIP Lender’s Charge (collectively, the “**Charges**”) shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect the Charges.

23. **THIS COURT ORDERS** that each of the Administration Charge and the DIP Lender's Charge (all as constituted and defined herein) shall constitute a charge on the Property in Canada and such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, "**Encumbrances**") in favour of any Person provided, however, that the DIP Lender's Charge and the ranking thereof shall be subject to the Carve-Out (as defined in the U.S. Interim DIP Order) and the other priorities and provisions set out in the U.S. Interim DIP Order.

24. **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court, the Debtors shall not grant any Encumbrances over any Property in Canada that rank in priority to, or *pari passu* with, the Administration Charge or the DIP Lender's Charge, subject to the Carve-Out (as defined in the U.S. Interim DIP Order), and the other priorities and provisions set out in the U.S. Interim DIP Order unless the Debtors also obtain the prior written consent of the Information Officer and the DIP Lenders, in their capacity as such.

25. **THIS COURT ORDERS** that the Administration Charge and the DIP Lender's Charge shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the "**Chargees**") shall not otherwise be limited or impaired in any way by: (i) the pendency of these proceedings and the declarations of insolvency made herein; (ii) any application(s) for bankruptcy order(s) issued pursuant to BIA, or any bankruptcy order made pursuant to such applications; (iii) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (iv) the provisions of any federal or provincial statutes; or (v) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an "**Agreement**") which binds any Debtor, and notwithstanding any provision to the contrary in any Agreement:

- (a) the creation of the Charges shall not create or be deemed to constitute a breach by a Debtor of any Agreement to which it is a party;

- (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the creation of the Charges; and
- (c) the payments made by the Debtors to the Chargees pursuant to this Order, and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

26. **THIS COURT ORDERS** that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the applicable Debtor's interest in such real property leases.

SERVICE AND NOTICE

27. **THIS COURT ORDERS** that that the E-Service Protocol of the Commercial List (the "**Protocol**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <https://www.ontariocourts.ca/scj/practice/regional-practice-directions/eservice-commercial/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that the Information Officer shall establish a Case Website in accordance with the Protocol with the following URL:

<http://www.alvarezandmarsal.com/nevadacopper>.

28. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Debtors, the Foreign Representative and the Information Officer and their respective counsel are at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Debtors' creditors or other interested parties at their respective addresses as last shown on the records of the applicable Debtor and that any such

service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

29. **THIS COURT ORDERS** that the Information Officer shall create, maintain and update as necessary a list of all Persons appearing in person or by counsel in this proceeding (the “**Service List**”). The Information Officer shall post the Service List, as may be updated from time to time, on the case website as part of the public materials in relation to this proceeding. Notwithstanding the foregoing, the Information Officer shall have no liability in respect of the accuracy of or the timeliness of making any changes to the Service List.

GENERAL

30. **THIS COURT ORDERS** that the Information Officer may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

31. **THIS COURT ORDERS** that nothing in this Order shall prevent the Information Officer from acting as an interim receiver, a receiver, a receiver and manager, a monitor, a proposal trustee, or a trustee in bankruptcy of any Debtor, the Business or the Property.

32. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States of America, to give effect to this Order and to assist the Debtors, the Foreign Representative, the Information Officer, and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Debtors, the Foreign Representative, and the Information Officer, the latter as an officer of this Court, as may be necessary or desirable to give effect to this Order, or to assist the Debtors, the Foreign Representative, and the Information Officer and their respective agents in carrying out the terms of this Order.

33. **THIS COURT ORDERS** that each of the Debtors, the Foreign Representative and the Information Officer be at liberty and is hereby authorized and empowered to apply to any

court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order.

34. **THIS COURT ORDERS** that any interested party may apply to this Court to vary or amend this Order or seek other relief on not less than seven (7) days notice to the Debtors, the Foreign Representative, the Information Officer and their respective counsel, and to any other party or parties likely to be affected by the order sought, or upon such other notice, if any, as this Court may order.

35. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Standard Time on the date of this Order without the need for entry and/or filing.

A handwritten signature in blue ink is written over a horizontal line. The signature is stylized and appears to be "Ray J.".

Schedule A

Order Authorizing Nevada Copper, Inc., to Act as Foreign Representative of the Debtors

STATE OF NEW YORK)

COUNTY OF NEW YORK)

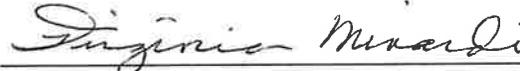
The attached document, the Order Authorizing Nevada Copper Inc. to act as Foreign Representative of the Debtors, dated June 17, 2024 and containing 4 pages, is a true and correct copy of an electronic record obtained by me from the United States Bankruptcy Court for the District of Nevada via Public Access to Court Electronic Records service. At the time I obtained this record, no security features present on the electronic record indicated any changes or errors in an electronic signature or other information in the electronic record after the electronic record's creation or execution.

This declaration is made by me under penalty of perjury, and signed this 20th day of June, 2024.



Noah Blum

VIRGINIA MINARDI
Notary Public, State of New York
No. 01M14867959
Qualified in Queens County
Certificate Filed in New York County
Commission Expires Nov. 10, 2026



Notary Publics Signature



Printed Name of Notary Public

Hilary L Barnes

Honorable Hilary L. Barnes
United States Bankruptcy Judge



Entered on Docket
June 17, 2024

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:

NEVADA COPPER, INC.,¹

Debtor.

Joint Administration Requested

Case No. 24-50566-hlb
Chapter 11

Hearing Date: June 13, 2024
Hearing Time: 1:30 p.m.

**ORDER AUTHORIZING NEVADA COPPER, INC.,
TO ACT AS FOREIGN REPRESENTATIVE OF THE DEBTORS**

Upon the motion (the “*Motion*”)² of the Debtors for entry of an order (this “*Order*”), pursuant to sections 105(a) and 1505 of the Bankruptcy Code and Bankruptcy Rule 6003, (i) authorizing, but not directing, Debtor Nevada Copper, Inc. (“*NCT*”), to (a) act as the foreign representative of the Debtors; (b) seek recognition by the Canadian Court (as defined below) of the Chapter 11 Cases and of certain orders made by this Court in the Chapter 11 Cases from time to time; (c) request that the Canadian Court lend assistance to this Court and grant comity to the foreign representative; and (d) seek any other appropriate relief from the Canadian Court that is just and proper, and (ii) granting related relief; and upon the First Day Declaration; and it appearing that this Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; and it appearing that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A) and that this Court

¹ The Debtors in these chapter 11 cases and the last four digits of their registration numbers in the jurisdiction in which they are organized are: Nevada Copper, Inc. (1157) (Nevada); Nevada Copper Corp. (5323) (British Columbia); 0607792 B.C. Ltd. (2524) (British Columbia); Lion Iron Corp. (2904) (Nevada); NC Farms LLC (0264) (Nevada); and NC Ditch Company LLC (4396) (Nevada).

² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Motion.

1 may enter a final order consistent with Article III of the United States Constitution; and, under the
2 circumstances, proper and adequate notice of the Motion and the hearing thereon having been
3 given; and it appearing that no other or further notice is necessary; and this Court having reviewed
4 the Motion and having heard the statements in support of the relief requested therein at a hearing
5 before this Court; and it appearing that the legal and factual bases set forth in the Motion establish
6 just cause for the relief granted herein; and this Court having determined that the relief sought in
7 the Motion is in the best interests of the Debtors, their estates, their creditors and other parties in
8 interest; and after due deliberation and sufficient cause appearing therefor;

9 IT IS HEREBY ORDERED THAT:

10 1. The Motion is GRANTED as set forth herein.

11 2. Nevada Copper, Inc. (“*NCI*”), is authorized, but not directed, (i) to act as the foreign
12 representative of the Debtors, (ii) to seek recognition by the Canadian Court of the Chapter 11
13 Cases and of certain orders made by the Court in the Chapter 11 Cases from time to time, (iii) to
14 request that the Canadian Court lend assistance to this Court and grant comity to the foreign
15 representative, and (iv) to seek any other appropriate relief from the Canadian Court that the
16 Debtors deem just and proper.

17 3. This Court requests the aid and assistance of the Canadian Court to recognize these
18 Chapter 11 Cases as a “foreign main proceeding” and *NCI* as a “foreign representative” pursuant
19 to the Companies’ Creditors Arrangement Act and to recognize and give full force and effect to
20 this Order in all provinces and territories of Canada.

21 4. This Court requests the assistance of the Canadian Court to act in aid of and be
22 auxiliary to this Court in relation to the protection of the Debtors’ assets in Canada, including by
23 giving effect to the automatic stay under section 362(a) of the Bankruptcy Code in Canada.

24 5. Nothing in the Motion or this Order shall be deemed or construed as: (i) an
25 admission as to the validity of any claim against the Debtors; (ii) a waiver of the Debtors’ rights
26 to dispute any claim on any grounds; (iii) a promise or requirement to pay any claim; (iv) an
27 admission that any particular claim is of a type specified or defined hereunder; (v) a request to
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1 assume any executory contract or unexpired lease; or (vi) a waiver of the Debtors' rights under the
2 Bankruptcy Code or any other applicable law.

3 6. The requirements set forth in Bankruptcy Rule 6003 are satisfied by the contents of
4 the Motion or otherwise deemed waived.

5 7. Notwithstanding any provision in the Federal Rules of Bankruptcy Procedure to the
6 contrary, the Debtors are not subject to any stay in the implementation, enforcement, or realization
7 of the relief granted in this Order, and the Debtors may, in their discretion and without further
8 delay, take any action and perform any act necessary to implement the relief granted in this Order.

9 8. This Court shall retain jurisdiction over any and all matters arising from or related
10 to the interpretation or implementation of this Order.

11 **IT IS SO ORDERED.**

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1 In accordance with LR 9021, counsel submitting this **ORDER AUTHORIZING**
2 **NEVADA COPPER, INC., TO ACT AS FOREIGN REPRESENTATIVE OF THE**
3 **DEBTORS** certifies that the order accurately reflects the court’s ruling and that (check one):

4 The Court has waived the requirement set forth in LR 9021(b)(1).

5 No party appeared at the hearing or filed an objection to the motion.

6 I have delivered a copy of this proposed order to all counsel who appeared at the
7 hearing, and any unrepresented parties who appeared at the hearing, and each has approved or
8 disapproved the order, or failed to respond, as indicated below [list each party and whether the party
9 has approved, disapproved, or failed to respond to the document].

10 JARED A. DAY **APPROVED** / ~~DISAPPROVED~~
11 *United States Trustee*

12 STEVEN D. JEROME **APPROVED** / ~~DISAPPROVED~~
13 *Attorneys for RAM Enterprise, Inc.*

14 KATE DOORLEY **APPROVED** / ~~DISAPPROVED~~
15 *Attorneys for DIP Lenders*

16 I certify that this is a case under Chapter 7 or 13, that I have served a copy of this
17 order with the motion pursuant to LR 9014(g), and that no party has objected to the form or
18 content of the order.

19 Prepared and submitted by:

20 McDONALD CARANO LLP

21 /s/ Ryan J. Works
22 Ryan J. Works (NSBN 9224)
23 Amanda M. Perach (NSBN 12399)
24 2300 West Sahara Avenue, Suite 1200
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28 ALLEN OVERY SHEARMAN STERLING US LLP
Fredric Sosnick (New York Bar No. 2472488) (*pro hac* pending)
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Proposed Counsel to the Debtors and Debtors in Possession

Schedule B

Order Authorizing Joint Administration of Chapter 11 Cases

Hilary L Barnes

Honorable Hilary L. Barnes
United States Bankruptcy Judge



Entered on Docket
June 18, 2024

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re: NEVADA COPPER, INC., ¹ Debtor.	Case No.: 24-50566-hlb Chapter 11
In re: NEVADA COPPER CORP., Debtor.	Case No.: 24-50567-hlb Chapter 11
In re: NC DITCH COMPANY LLC, Debtor.	Case No.: 24-50568-hlb Chapter 11
In re: NC FARMS LLC, Debtor.	Case No.: 24-50569-hlb Chapter 11
In re: LION IRON CORP., Debtor.	Case No.: 24-50570-hlb Chapter 11
In re: 0607792 B.C. LTD., Debtor.	Case No.: 24-50571-hlb Chapter 11
	Hearing Date: June 13, 2024 Hearing Time: 1:30 p.m.

ORDER AUTHORIZING JOINT ADMINISTRATION OF CHAPTER 11 CASES

Upon the motion (the "*Motion*")² of the Debtors for entry of an order (this "*Order*"), pursuant to Bankruptcy Rule 1015(b) and Local Rule 1015 authorizing the joint administration of the Debtors' related chapter 11 cases; and upon the First Day Declaration; and it appearing that

¹ The Debtors in these chapter 11 cases and the last four digits of their registration numbers in the jurisdiction in which they are organized are: Nevada Copper, Inc. (1157) (Nevada); Nevada Copper Corp. (5323) (British Columbia); 0607792 B.C. Ltd. (2524) (British Columbia); Lion Iron Corp. (2904) (Nevada); NC Farms LLC (0264) (Nevada); and NC Ditch Company LLC (4396) (Nevada).

² Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Motion.

1 this Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; and it appearing
 2 that venue of these chapter 11 cases and the Motion in this district is proper pursuant to 28 U.S.C.
 3 1408 and 1409; and it appearing that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A)
 4 and that this Court may enter a final order consistent with Article III of the United States
 5 Constitution; and, under the circumstances, proper and adequate notice of the Motion and the
 6 hearing thereon having been given; and it appearing that no other or further notice is necessary;
 7 and this Court having reviewed the Motion and having heard the statements in support of the relief
 8 requested therein at a hearing before this Court; and it appearing that the legal and factual bases
 9 set forth in the Motion establish just cause for the relief granted herein; and this Court having
 10 determined that the relief sought in the Motion is in the best interests of the Debtors, their estates,
 11 their creditors, and other parties in interest; and after due deliberation and sufficient cause
 12 appearing therefor;

13 IT IS HEREBY ORDERED THAT:

- 14 1. The Motion is GRANTED as set forth herein.
- 15 2. Pursuant to Bankruptcy Rule 1015(b) and Local Rule 1015, the above-captioned
 16 chapter 11 related cases are consolidated for administrative purposes only and shall be jointly
 17 administered by this Court as Case No. 24-50566-hlb.
- 18 3. The consolidated caption of the jointly administered cases shall read as follows:

19 **UNITED STATES BANKRUPTCY COURT**
 20 **DISTRICT OF NEVADA**

21 In re:

- 22 NEVADA COPPER, INC.
- 23 NEVADA COPPER CORP.
- 24 NC DITCH COMPANY LLC
- 25 NC FARMS LLC
- 26 LION IRON CORP.
- 27 0607792 B.C. LTD.

28 Debtors.³

Lead Case No.: 24-50566-hlb
Chapter 11

Jointly Administered with:
 Case No. 24-50567-hlb
 Case No. 24-50568-hlb
 Case No. 24-50569-hlb
 Case No. 24-50570-hlb
 Case No. 24-50571-hlb

³ The Debtors in these chapter 11 cases and the last four digits of their registration numbers in the jurisdiction in which they are organized are: Nevada Copper, Inc. (1157) (Nevada); Nevada Copper Corp. (5323) (British

1 4. A docket entry shall be made in each Debtor’s chapter 11 case substantially as
2 follows:

3 An Order has been entered in this case under Rule 1015(b) of the Federal Rules of
4 Bankruptcy Procedure directing the procedural consolidation and joint
5 administration of the Chapter 11 cases of Nevada Copper, Inc., Nevada Copper
6 Corp. (5323) (British Columbia); NC Ditch Company LLC, NC Farms LLC, Lion
7 Iron Corp., and 0607792 B.C. Ltd. All further pleadings and other papers shall be
8 filed in, and all further docket entries shall be made in the docket of Nevada Copper,
9 Inc., Case No. 24-50566-hlb and such docket should be consulted for all matters
10 affecting these chapter 11 cases.

11 5. One consolidated docket, one file and one consolidated service list shall be
12 maintained by Nevada Copper, Inc., or its claims agent, and kept by the clerk of the Court in
13 these Chapter 11 Cases. Notwithstanding the foregoing, each Debtor shall maintain a separate
14 claims register through its claims agent, and shall file separate operating reports, schedules of
15 assets and liabilities, and statements of financial affairs.

16 6. Nothing contained in the Motion or this Order shall be deemed or construed as
17 directing or otherwise affecting a substantive consolidation of these Chapter 11 Cases, or
18 creating any other implication regarding the separateness (or lack of separateness) of the
19 Debtors’ estates for any purpose.

20 7. This Order shall apply to any future filing of any affiliate of the Debtors,
21 *provided, however*, that the Debtors shall file a notice with the Court identifying the cases of
22 such affiliates and stating that this Order shall apply to such cases.

23 8. This Order shall constitute notice of related cases pursuant to Local Rule
24 1015(a), as it sets forth the title case number and filing date of each related case together with
25 a brief statement of the relationship of the Debtors.

26 9. The Debtors are authorized and empowered to take all actions necessary to
27 implement the relief granted in this Order.

28 Columbia); 0607792 B.C. Ltd. (2524) (British Columbia); Lion Iron Corp. (2904) (Nevada); NC Farms LLC
 (0264) (Nevada); and NC Ditch Company LLC (4396) (Nevada).

1 In accordance with LR 9021, counsel submitting this **ORDER AUTHORIZING JOINT**
2 **ADMINISTRATION OF CHAPTER 11 CASES** certifies that the order accurately reflects the
3 court’s ruling and that (check one):

4 The Court has waived the requirement set forth in LR 9021(b)(1).

5 No party appeared at the hearing or filed an objection to the motion.

6 I have delivered a copy of this proposed order to all counsel who appeared at the
7 hearing, and any unrepresented parties who appeared at the hearing, and each has approved or
8 disapproved the order, or failed to respond, as indicated below [list each party and whether the party
has approved, disapproved, or failed to respond to the document].

9 JARED A. DAY **APPROVED** / ~~DISAPPROVED~~
10 *United States Trustee*

11 STEVEN D. JEROME **APPROVED** / ~~DISAPPROVED~~
12 *Attorneys for RAM Enterprise, Inc.*

13 KATE DOORLEY **APPROVED** / ~~DISAPPROVED~~
14 *Attorneys for DIP Lenders*

15 I certify that this is a case under Chapter 7 or 13, that I have served a copy of this
16 order with the motion pursuant to LR 9014(g), and that no party has objected to the form or
17 content of the order.

18 Prepared and submitted by:

19 McDONALD CARANO LLP

20 /s/ Ryan J. Works

21 Ryan J. Works (NSBN 9224)
22 Amanda M. Perach (NSBN 12399)
23 2300 West Sahara Avenue, Suite 1200
24 Las Vegas, Nevada 89102

25 ALLEN OVERY SHEARMAN STERLING US LLP
26 Fredric Sosnick (New York Bar No. 2472488) (*pro hac* pending)
27 Sara Coelho (New York Bar No. 4530267) (*pro hac* pending)
28 599 Lexington Avenue
New York, New York 10022

Proposed Counsel to the Debtors and Debtors in Possession

Schedule C

Interim Order Authorizing the Debtors to Continue to (I) Use Their Existing Cash Management System, (II) Use and Maintain Existing Bank Accounts, (III) Continue Intercompany Transactions and (IV) Use Their Existing Business Forms

Hilary L Barnes

Honorable Hilary L. Barnes
United States Bankruptcy Judge



Entered on Docket
June 17, 2024

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:

NEVADA COPPER, INC.,¹

Debtor.

Joint Administration Requested

Case No. 24-50566-hlb
Chapter 11

Hearing Date: June 13, 2024
Hearing Time: 1:30 p.m.

**INTERIM ORDER AUTHORIZING THE DEBTORS TO CONTINUE TO
(I) USE THEIR EXISTING CASH MANAGEMENT SYSTEM, (II) USE AND
MAINTAIN EXISTING BANK ACCOUNTS, (III) CONTINUE INTERCOMPANY
TRANSACTIONS AND (IV) USE THEIR EXISTING BUSINESS FORMS**

Upon the motion (the “*Motion*”)² of the Debtors for entry of an interim order (this “*Interim Order*”), pursuant to sections 105(a), 345(b), and 363 of the Bankruptcy Code, and Bankruptcy Rules 6003 and 6004, authorizing the Debtors to (i) continue use of their existing Cash Management System, including honoring certain prepetition obligations related thereto, (ii) maintain their existing Bank Accounts (including by authorizing the Banks to continue to maintain, service and administer the Bank Accounts), (iii) continue Intercompany Transactions in the ordinary course of business, (iv) grant administrative expense status to postpetition Intercompany Transactions and Superpriority administrative expense status to claims resulting from Intercompany Transactions transferring proceeds of debtor-in-possession financing to NCU,

¹ The Debtors in these chapter 11 cases and the last four digits of their registration numbers in the jurisdiction in which they are organized are: Nevada Copper, Inc. (1157) (Nevada); Nevada Copper Corp. (5323) (British Columbia); 0607792 B.C. Ltd. (2524) (British Columbia); Lion Iron Corp. (2904) (Nevada); NC Farms LLC (0264) (Nevada); and NC Ditch Company LLC (4396) (Nevada).

² Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Motion.

1 (v) continue use of their existing business forms, (vi) granting related relief; and upon the First
2 Day Declaration; and it appearing that this Court has jurisdiction over this matter pursuant to 28
3 U.S.C. §§ 157 and 1334; and it appearing that this is a core proceeding pursuant to 28 U.S.C.
4 § 157(b)(2)(A) and that this Court may enter a final order consistent with Article III of the United
5 States Constitution; and, under the circumstances, proper and adequate notice of the Motion and
6 the hearing thereon having been given; and it appearing that no other or further notice is necessary;
7 and this Court having reviewed the Motion and having heard the statements in support of the relief
8 requested therein at a hearing before this Court; and it appearing that the legal and factual bases
9 set forth in the Motion establish just cause for the relief granted herein; and this Court having
10 determined that the relief sought in the Motion is in the best interests of the Debtors, their estates,
11 their creditors, and other parties in interest; and after due deliberation and sufficient cause
12 appearing therefor;

13 IT IS HEREBY ORDERED THAT:

- 14 1. The Motion is GRANTED as set forth herein.
- 15 2. Cash Management System. The Debtors are authorized, but not directed, to
16 continue to use the Cash Management System, including any intercompany transfers among Bank
17 Accounts, in accordance with the ordinary course and historical practices of the Cash Management
18 System and subject to compliance with the Approved Budget (as defined in the DIP Motion);
19 *provided*, that the Debtors shall maintain detailed records reflecting all transfers of funds, so that
20 all such transactions, including prepetition and postpetition transactions, readily may be
21 ascertained, traced and recorded properly on applicable accounts.
- 22 3. The Debtors are further authorized to honor and pay all obligations related to the
23 Cash Management System, including all undisputed prepetition Bank Fees as described in the
24 Motion.
- 25 4. Proceeds of the DIP Facility constitute postpetition assets of the Debtors, subject
26 only to the Carve Out, Administrative Charge, DIP Lenders' first priority Liens, and adequate
27 protection liens of the Prepetition Secured Parties (each as defined in the applicable Financing
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1 Orders), with the priorities set forth in the Financing Orders, and shall, for the avoidance of doubt,
2 not be subject to any liens arising from prepetition claims against any of the Debtors, whether
3 perfected prior to the Petition Date, after the Petition Date pursuant to section 546(b) of the
4 Bankruptcy Code, or otherwise, regardless of where or how held. The Debtors may deposit
5 proceeds of the DIP Facility into their existing Bank Accounts, and such proceeds shall not be
6 subject to any liens or claims arising pre-petition, including pursuant to chapter 108 of the Nevada
7 Revised Statutes, whether or not eligible for perfection after the Petition Date, except for junior
8 liens or claims of the Prepetition Secured Parties, as set forth in the Financing Orders. For the
9 avoidance of doubt, to the extent of any proceeds of the DIP Facility deposited therein, no Bank
10 Account of the Debtors may be a “construction disbursement account” for the purposes of chapter
11 108 of the Nevada Revised Statutes.

12 5. Maintenance of Bank Accounts. Subject to the limitations of this Interim Order
13 and pursuant to section 363 of the Bankruptcy Code, the Debtors are authorized and empowered
14 to: (i) designate, maintain and continue to use any and all of the bank accounts in existence as of
15 the Petition Date, including, without limitation, the accounts identified in **Exhibit 4** to the Motion
16 (the “**Bank Accounts**”); *provided, however*, that the Debtors shall direct the financial institutions
17 where the Bank Accounts are maintained (collectively, the “**Banks**”) to code the Bank Accounts
18 internally as debtor-in-possession accounts; (ii) subject to the consent of the DIP Lenders, open
19 new accounts wherever they are needed; *provided, however*, that the Debtors shall give the United
20 States Trustee, and any statutory committee that may be appointed in these Chapter 11 Cases, five
21 days’ advance notice (or such shorter notice as the United States Trustee and any committee may
22 agree to) of each such newly opened account, and any new account shall be opened at one of the
23 Banks or at a bank that has executed, or is willing to execute, a Uniform Depository Agreement
24 with the United States Trustee; (iii) treat the Bank Accounts for all purposes as accounts of the
25 Debtors in their capacity as debtors in possession; and (iv) close any Bank Account, *provided,*
26 *however*, that the Debtors shall give the United States Trustee, the applicable Bank, the DIP
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1 Lenders, and any statutory committee that may be appointed in these Chapter 11 Cases five days'
2 written notice following any such account closure.

3 6. For all purposes in this Order, any and all accounts opened by the Debtors on or
4 after the Petition Date shall be deemed a Bank Account (as if it had been opened prior to the
5 Petition Date and listed on **Exhibit 4** to the Motion) and any and all Banks at which such accounts
6 are opened shall similarly be subject to the rights and obligations of this Order.

7 7. The Banks are authorized to continue to treat, service, and administer the Bank
8 Accounts as accounts of the respective Debtor as a debtor-in-possession without interruption and
9 in the usual and ordinary course, and to receive, process and honor and pay, to the extent of
10 available funds, any and all postpetition checks, drafts, wires, or ACH transfers drawn on the Bank
11 Accounts by the holders or makers thereof, as the case may be.

12 8. The Banks are authorized to debit the Debtors' accounts in the ordinary course of
13 business without the need for further order of this Court for: (i) all checks drawn on the Debtors'
14 accounts which are cashed at such Bank or exchanged for cashier's checks by the payees thereof
15 prior to the Petition Date; (ii) all checks or other items deposited in one of the Debtors' accounts
16 with such Bank prior to the Petition Date which have been dishonored or returned unpaid for any
17 reason, together with any fees and costs in connection therewith, to the same extent the Debtor
18 was responsible for such items prior to the Petition Date; and (iii) all undisputed prepetition
19 amounts outstanding as of the date hereof, if any, owed to any Bank as service charges for the
20 maintenance of the Cash Management System.

21 9. A Bank may rely on the representations of the Debtors with respect to whether any
22 check, item or other payment order drawn or issued by the Debtors prior to the Petition Date should
23 be honored pursuant to this or any other order of this Court. The Banks have no duty to make an
24 independent inquiry as to whether such payments are authorized by an order of this Court.

25 10. The Banks shall not be liable to any party on account of (i) following the Debtors'
26 instructions or representations as to any order of this Court, or (ii) honoring any prepetition check
27 or item in a good faith belief that the Court has authorized such prepetition check or item to be
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1 honored.

2 11. Use of Business Forms. The Debtors are authorized, but not directed, to continue
3 to use their Business Forms existing immediately prior to the Petition Date without alteration or
4 change and without the designation “Debtor in Possession” or a Debtor in Possession case number
5 imprinted upon them and are granted a waiver of the requirement that the legend “DIP” or “Debtor
6 in Possession” be printed on their checks; *provided, however*, that the Debtors shall imprint the
7 legend “DIP” or “Debtor in Possession” on their electronic Business Forms and shall note “DIP”
8 or “Debtor in Possession” on electronically printed checks within 15 days of entry of this Interim
9 Order.

10 12. Intercompany Transactions. Subject to the limitations of this Interim Order, the
11 Debtors are authorized to continue performing intercompany transactions arising from or related
12 to the operation of their business in the ordinary course (the “*Intercompany Transactions*”). In
13 connection with the Intercompany Transactions, the Debtors shall continue to maintain current
14 records with respect to all transfers such that all Intercompany Transactions readily may be
15 ascertained, traced, and properly recorded.

16 13. Pursuant to sections 503(b)(1) and 364(b) of the Bankruptcy Code, all valid
17 postpetition payments on account of a postpetition Intercompany Transaction shall, in each case,
18 be accorded administrative expense status, subject and junior to the claims, including adequate
19 protection claims, granted in connection with a Financing Order; *provided* that claims arising from
20 or related to Intercompany Transactions in which proceeds from the DIP Facility or Cash
21 Collateral (each as defined in the Financing Orders), as applicable, are transferred from any Debtor
22 entity (or entities) to Debtor NCU shall be accorded superpriority administrative expenses priority
23 and shall have priority over any and all administrative expenses and claims of any kind or nature
24 whatsoever, including, without limitation, all Adequate Protection Claims (as defined in the
25 Financing Orders) granted under the Financing Orders and any administrative expenses of the
26 kinds specified in or ordered pursuant to sections 105, 326, 327, 328, 330, 331, 361, 362, 363, 364,
27 365, 503, 506, 507(a), 507(b), 546, 552, 726, 1113, and 1114 of the Bankruptcy Code, and any

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1 other provision of the Bankruptcy Code, subject only to the Carve-Out and the Administrative
2 Charge (each as defined in the applicable Financing Orders).

3 14. All proceeds of the DIP Facility (as defined in the DIP Motion) and all cash
4 collateral of the DIP Lenders (other than amounts on deposit in accounts owned by NCU prior to
5 any funding of the DIP Facility) shall be held at NCI and shall not be transferred or lent to any
6 other Debtor absent the prior written consent of the DIP Lenders, except for amounts disbursed to
7 NCU pursuant to the Approved Budget or otherwise agreed to by the DIP Lenders.

8 15. Notwithstanding anything to the contrary in this Interim Order, any payment made
9 or to be made hereunder, and any authorization herein, shall be subject to the requirements (if any)
10 imposed on the Debtors under any applicable Financing Order, including any documentation with
11 respect to such financing and any budget in connection with such Financing Order. In the event
12 of any conflict between the terms of this Interim Order and any Financing Order, the terms of the
13 applicable Financing Order shall control (solely to the extent of such conflict). Nothing in this
14 Interim Order authorizes the Debtors to accelerate any payments not otherwise due prior to the
15 date of the Final Hearing (as defined below).

16 16. The final hearing (the "***Final Hearing***") on the Motion shall be held on July 12,
17 2024, at 10:30 a.m. (Prevailing Pacific Time). Any party in interest objecting to the relief sought
18 at the Final Hearing or in the Final Order shall file and serve a written objection, which objection
19 shall be served upon: (i) proposed counsel for the Debtors, (a) Allen Overy Shearman Sterling US
20 LLP, 599 Lexington Avenue, New York, NY 10022, Attn: Fredric Sosnick and Sara Coelho; (b)
21 McDonald Carano LLP, 2300 West Sahara Avenue, Suite 1200, Las Vegas, Nevada 89102, Attn:
22 Ryan J. Works; and (c) Torys LLP, 79 Wellington St. W., 30th Floor, Box 270, TD South Tower
23 Toronto, Ontario M5K 1N2 Canada, Attn: Tony DeMarinis, Mike Noel, Hanna Singer and
24 Jeremy Opolsky; (ii) the Office of the United States Trustee for Region 17, C. Clifton Young
25 Federal Building, 300 Booth Street, Room 3009, Reno, Nevada 85909; (iii) counsel to the DIP
26 Lenders, (a) Akin Gump Strauss Hauer & Feld LLP, One Bryant Park, New York, NY 10036,
27 Attn: Brad Kahn; 2001 K St. NW, Washington, D.C. 20006, Attn: Kate Doorley; and (b) Shea
28

1 Larsen PC, 1731 Village Center Circle, Suite 150, Las Vegas, NV 89134, Attn: James Patrick
2 Shea and Bart Larsen; (iv) Milbank LLP, as counsel to KfW IPEX-Bank GmbH as administrative
3 agent under the Debtors' prepetition credit agreement, 55 Hudson Yards, New York, NY 10001,
4 Attn: Tyson Lomazow; (v) Bennett Jones LLP, as counsel to Mercuria Investments US, Inc., 3400
5 One First Canadian Place, P.O. Box 130, Toronto, Ontario M5X 1A4, Canada, Attn: Simon
6 Grant; (vi) White & Case LLP, as counsel to Concord Resources Limited as buyer under the
7 Debtors' prepetition advance payment agreement, 1221 6th Avenue, New York, NY 10020,
8 Attn: Philip Abelson; (vii) Davis, Graham & Stubbs LLP, as counsel to Triple Flag Mining
9 Finance Bermuda Ltd. as purchaser under the Debtors' prepetition purchase and sale agreement;
10 1550 17th Street, Suite 500, Denver, CO 80202, Attn: Kyler Burgi; (viii) Cleary Gottlieb Steen
11 & Hamilton LLP, as counsel to Pala Investments Limited as prepetition lender, 2 London Wall
12 Place, London, EC2Y 5AU, United Kingdom, Attn: Solomon J. Noh; One Liberty Plaza, New
13 York, NY 10006, Attn: Lisa M. Schweitzer; (ix) Kelley Drye & Warren, LLP, as counsel to the
14 DIP Agent, 3 World Trade Center, 175 Greenwich Street, New York, NY 10007, Attn: James S.
15 Carr, Esq.; (x) the Banks; and (xi) counsel to any statutory committee appointed in these Chapter
16 11 Cases, in each case so as to be received no later than June 28, 2024, at 11:59 p.m. (Prevailing
17 Pacific Time). If no objections to the entry of the Final Order are timely filed, this Court may enter
18 the Final Order without further notice or a hearing.

19 17. The requirements set forth in Bankruptcy Rule 6003(b) are satisfied by the contents
20 of the Motion.

21 18. Notice of the Motion, as provided therein, is deemed good and sufficient and the
22 requirements of Bankruptcy Rule 6004(a) are satisfied by such notice.

23 19. Notwithstanding Bankruptcy Rule 6004(h), the terms and provisions of this Interim
24 Order shall be immediately effective and enforceable upon its entry.

25 20. All time periods set forth in this Interim Order shall be calculated in accordance
26 with Bankruptcy Rule 9006(a).

1 In accordance with LR 9021, counsel submitting this **INTERIM ORDER**
2 **AUTHORIZING THE DEBTORS TO CONTINUE TO (I) USE THEIR EXISTING CASH**
3 **MANAGEMENT SYSTEM, (II) USE AND MAINTAIN EXISTING BANK ACCOUNTS,**
4 **(III) CONTINUE INTERCOMPANY TRANSACTIONS AND (IV) USE THEIR EXISTING**
5 **BUSINESS FORMS** certifies that the order accurately reflects the court’s ruling and that (check
6 one):

7 The Court has waived the requirement set forth in LR 9021(b)(1).

8 No party appeared at the hearing or filed an objection to the motion.

9 I have delivered a copy of this proposed order to all counsel who appeared at the
10 hearing, and any unrepresented parties who appeared at the hearing, and each has approved or
disapproved the order, or failed to respond, as indicated below [list each party and whether the party
has approved, disapproved, or failed to respond to the document].

11 JARED A. DAY **APPROVED** / ~~DISAPPROVED~~
12 *United States Trustee*

13 STEVEN D. JEROME **APPROVED** / ~~DISAPPROVED~~
14 *Attorneys for RAM Enterprise, Inc.*

15 KATE DOORLEY **APPROVED** / ~~DISAPPROVED~~
Attorneys for DIP Lenders

16 I certify that this is a case under Chapter 7 or 13, that I have served a copy of this
17 order with the motion pursuant to LR 9014(g), and that no party has objected to the form or
18 content of the order.
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Prepared and submitted by:

McDONALD CARANO LLP

/s/ Ryan J. Works

Ryan J. Works (NSBN 9224)
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ALLEN OVERY SHEARMAN STERLING US LLP
Fredric Sosnick (New York Bar No. 2472488) (*pro hac* pending)
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599 Lexington Avenue
New York, New York 10022
fsosnick@aoshearman.com
sara.coelho@aoshearman.com

Proposed Counsel to the Debtors and Debtors in Possession

Schedule D

Interim Order (I) Authorizing the Debtors to (A) Continue their Prepetition Insurance Policies, (B) Continue their Prepetition Surety Bond Program, and (C) Enter into New Premium Financing Agreements and (II) Granting Related Relief

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Honorable Hilary L. Barnes
United States Bankruptcy Judge



Entered on Docket
June 17, 2024

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

In re:

NEVADA COPPER, INC.,¹

Debtor.

Joint Administration Requested

Case No. 24-50566-hlb
Chapter 11

Hearing Date: June 13, 2024
Hearing Time: 1:30 p.m.

INTERIM ORDER (I) AUTHORIZING THE DEBTORS TO (A) CONTINUE THEIR PREPETITION INSURANCE POLICIES, (B) CONTINUE THEIR PREPETITION SURETY BOND PROGRAM AND (C) ENTER INTO NEW PREMIUM FINANCING AGREEMENTS AND (II) GRANTING RELATED RELIEF

Upon the motion (the “*Motion*”)² of the Debtors for entry of an interim order (this “*Interim Order*”), pursuant to sections 105(a), 363, and 364(c) of the Bankruptcy Code and Bankruptcy Rules 6003 and 6004, (i) authorizing, but not directing, the Debtors to (a) continue their existing insurance policies and satisfy payment obligations related thereto, (b) pay Surety Premiums and continue and renew their surety bond program on an uninterrupted basis, (c) revise, extend, renew, supplement, replace or enter into new premium financing agreements as needed, and (ii) granting related relief; and upon the First Day Declaration; and it appearing that this Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; and it appearing that this is a core

¹ The Debtors in these chapter 11 cases and the last four digits of their registration numbers in the jurisdiction in which they are organized are: Nevada Copper, Inc. (1157) (Nevada); Nevada Copper Corp. (5323) (British Columbia); 0607792 B.C. Ltd. (2524) (British Columbia); Lion Iron Corp. (2904) (Nevada); NC Farms LLC (0264) (Nevada); and NC Ditch Company LLC (4396) (Nevada).

² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Motion.

1 proceeding pursuant to 28 U.S.C. § 157(b)(2)(A) and that this Court may enter a final order
2 consistent with Article III of the United States Constitution; and, under the circumstances, proper
3 and adequate notice of the Motion and the hearing thereon having been given; and it appearing
4 that no other or further notice being necessary; and this Court having reviewed the Motion and
5 having heard the statements in support of the relief requested therein at a hearing before this Court;
6 and it appearing that the legal and factual bases set forth in the Motion establish just cause for the
7 relief granted herein; and this Court having determined that the relief sought in the Motion is in
8 the best interests of the Debtors, their estates, their creditors, and other parties in interest; and after
9 due deliberation and sufficient cause appearing therefor;

10 IT IS HEREBY ORDERED THAT:

11 1. The Motion is GRANTED as set forth herein.

12 2. The Debtors are authorized, but not directed, to pay (i) all premiums, claims,
13 deductibles, excess, retrospective adjustments, administrative fees, and all other obligations arising
14 under or in relation to the Insurance Policies and Insurance Program, including any self-insured
15 retention amounts (the “*Insurance Obligations*”) and (ii) all premiums, and any related
16 miscellaneous fees or other costs associated therewith, for the Debtors’ surety bonds (the “*Surety*
17 *Premiums*”), in each case, as they deem appropriate in the ordinary course of business without
18 further application to this Court, including making all payments, and honoring and satisfying all
19 obligations, whether relating to the period prior or subsequent to the Petition Date; *provided,*
20 *however,* that the Debtors shall not be authorized to pay in excess of \$315,000.00 on account of
21 such obligations that have accrued but that remain unpaid as of the Petition Date, absent further
22 order of this Court.

23 3. The Debtors are authorized and empowered, but not directed, to continue their
24 Insurance Program without interruption, on the same basis and in accordance with the same
25 practices and procedures as were in effect prior to the Petition Date. The Debtors are authorized,
26 but not directed, to renew, amend, supplement, extend, terminate, replace, increase, decrease, or
27 enter into new insurance coverage and change insurance carriers in the ordinary course of business.

1 4. The Debtors are authorized, but not directed, to continue their Surety Program
2 without interruption, including renewing Surety Bonds or, with the prior written consent of the
3 Required DIP Lenders, obtaining new Surety Bonds, obtaining additional surety coverage, or
4 changing carriers in connection with the Surety Program in the ordinary course of business.

5 5. The Debtors are authorized, but not directed, subject to the reasonable consent of
6 the Required DIP Lenders, to renew, amend, supplement, extend, terminate, replace, increase,
7 decrease, or enter into new insurance premium financing agreements in the ordinary course of
8 business.

9 6. The Debtors shall notify the Required DIP Lenders, the United States Trustee for
10 Region 17, and any statutory committee appointed in these Chapter 11 Cases as soon as reasonably
11 practicable, but not later than five (5) business days prior to the Debtors choosing to renew, amend,
12 supplement, extend, terminate, replace, increase, decrease or enter into new insurance premium
13 financing agreements or obtain additional surety or insurance coverage or change insurance or
14 surety carriers.

15 7. The Debtors are not authorized by this Interim Order, absent the reasonable consent
16 of the Required DIP Lenders, to take any action with respect to a Surety Bond that would have the
17 effect of transforming a Surety Bond obligation into a postpetition or secured obligation in each
18 case that is senior to any liens or claims granted in connection with any Financing Order(s) (as
19 defined below). To the extent the Required DIP Lenders consent to any such action, such relief
20 may be sought by a separate motion which may be heard on an expedited basis.

21 8. Nothing in the Motion or this Interim Order, nor the Debtors' payment of claims
22 pursuant to this Interim Order, shall be deemed or construed as: (i) an admission as to the validity
23 of any claim against the Debtors; (ii) a waiver of the Debtors' rights to dispute any claim on any
24 grounds; (iii) a promise to pay any claim; or (iv) an implication or admission that any particular
25 claim is an Insurance Obligation or Surety Obligation.

26 9. All banks and other financial institutions are authorized to receive, process, honor,
27 and pay all checks presented for payment of, and to honor all fund transfer requests made by the
28

1 Debtors related to the Insurance Program and Surety Bonds, regardless of whether the checks were
2 presented or fund transfer requests were submitted before or after the Petition Date; *provided* that
3 funds are available in the Debtors' accounts to cover the checks and fund transfers. Banks and
4 other financial institutions may rely on the representations of the Debtors with respect to whether
5 any check, item or other payment order drawn or issued by the Debtors prior to the Petition Date
6 should be honored pursuant to this or any other order of this Court, and such bank or financial
7 institution shall not have any liability to any party for relying on such representations by the
8 Debtors as provided for herein.

9 10. The Debtors are authorized to issue postpetition checks or to effect postpetition
10 fund transfer requests in replacement of any checks or fund transfer requests in respect of the
11 Insurance Program or Surety Bonds that are or have been dishonored or rejected as a consequence
12 of the commencement of the Chapter 11 Cases, and take all other steps reasonably necessary to
13 implement and effectuate the relief sought in the Motion.

14 11. Notwithstanding anything to the contrary in this Interim Order, any payment made
15 or to be made hereunder, and any authorization herein, shall be subject to the requirements (if any)
16 imposed on the debtors under any order(s) of this Court approving a postpetition debtor in
17 possession financing facility and/or the use of cash collateral (any such order, a "**Financing**
18 **Order**"), including any documentation with respect to such financing and any budget in connection
19 with such Financing Order. In the event of any conflict between the terms of this Interim Order
20 and a Financing Order, the terms of the applicable Financing Order shall control (solely to the
21 extent of such conflict). Nothing in this Interim Order authorizes the Debtors to accelerate any
22 payments not otherwise due prior to the date of the Final Hearing.

23 12. The final hearing (the "**Final Hearing**") on the Motion shall be held on July 12,
24 2024, at 10:30 a.m. (Prevailing Pacific Time). Any party in interest objecting to the relief sought
25 at the Final Hearing or in the Final Order shall file and serve a written objection, which objection
26 shall be served upon: (i) proposed counsel for the Debtors, (a) Allen Overy Shearman Sterling US
27 LLP, 599 Lexington Avenue, New York, NY 10022, Attn: Fredric Sosnick and Sara Coelho; (b)

1 McDonald Carano LLP, 2300 West Sahara Avenue, Suite 1200, Las Vegas, Nevada 89102, Attn:
2 Ryan J. Works; and (c) Torys LLP, 79 Wellington St. W., 30th Floor, Box 270, TD South Tower
3 Toronto, Ontario M5K 1N2 Canada, Attn: Tony DeMarinis, Mike Noel, Hanna Singer and
4 Jeremy Opolsky; (ii) the Office of the United States Trustee for Region 17, C. Clifton Young
5 Federal Building, 300 Booth Street, Room 3009, Reno, Nevada 85909; (iii) counsel to the DIP
6 Lenders, (a) Akin Gump Strauss Hauer & Feld LLP, One Bryant Park, New York, NY 10036,
7 Attn: Brad Kahn; 2001 K St. NW, Washington, D.C. 20006, Attn: Kate Doorley; and (b) Shea
8 Larsen PC, 1731 Village Center Circle, Suite 150, Las Vegas, NV 89134, Attn: James Patrick
9 Shea and Bart Larsen; (iv) Milbank LLP, as counsel to KfW IPEX-Bank GmbH as administrative
10 agent under the Debtors' prepetition credit agreement, 55 Hudson Yards, New York, NY 10001,
11 Attn: Tyson Lomazow; (v) Bennett Jones LLP, as counsel to Mercuria Investments US, Inc., 3400
12 One First Canadian Place, P.O. Box 130, Toronto, Ontario M5X 1A4, Canada, Attn: Simon
13 Grant; (vi) White & Case LLP, as counsel to Concord Resources Limited as buyer under the
14 Debtors' prepetition advance payment agreement, 1221 6th Avenue, New York, NY 10020,
15 Attn: Philip Abelson; (vii) Davis, Graham & Stubbs LLP, as counsel to Triple Flag Mining
16 Finance Bermuda Ltd. as purchaser under the Debtors' prepetition purchase and sale agreement;
17 1550 17th Street, Suite 500, Denver, CO 80202, Attn: Kyler Burgi; (viii) Cleary Gottlieb Steen
18 & Hamilton LLP, as counsel to Pala Investments Limited as prepetition lender, 2 London Wall
19 Place, London, EC2Y 5AU, United Kingdom, Attn: Solomon J. Noh; One Liberty Plaza, New
20 York, NY 10006, Attn: Lisa M. Schweitzer; (ix) Kelley Drye & Warren, LLP, as counsel to the
21 DIP Agent, 3 World Trade Center, 175 Greenwich Street, New York, NY 10007, Attn: James S.
22 Carr, Esq.; and (x) counsel to any statutory committee appointed in these Chapter 11 Cases, in
23 each case so as to be received no later than June 28, 2024, at 11:59 p.m. (Prevailing Pacific Time).
24 If no objections to the entry of the Final Order are timely filed, this Court may enter the Final
25 Order without further notice or a hearing.

26 13. All time periods set forth in this Order shall be calculated in accordance with
27 Bankruptcy Rule 9006(a).

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1 In accordance with LR 9021, counsel submitting this **INTERIM ORDER (I)**
2 **AUTHORIZING THE DEBTORS TO (A) CONTINUE THEIR PREPETITION**
3 **INSURANCE POLICIES, (B) CONTINUE THEIR PREPETITION SURETY BOND**
4 **PROGRAM AND (C) ENTER INTO NEW PREMIUM FINANCING AGREEMENTS AND**
5 **(II) GRANTING RELATED RELIEF** certifies that the order accurately reflects the court’s ruling
6 and that (check one):

- 7 The Court has waived the requirement set forth in LR 9021(b)(1).
- 8 No party appeared at the hearing or filed an objection to the motion.
- 9 I have delivered a copy of this proposed order to all counsel who appeared at the
10 hearing, and any unrepresented parties who appeared at the hearing, and each has approved or
11 disapproved the order, or failed to respond, as indicated below [list each party and whether the party
12 has approved, disapproved, or failed to respond to the document].

11 JARED A. DAY **APPROVED** / ~~DISAPPROVED~~
12 *United States Trustee*

13 STEVEN D. JEROME **APPROVED** / ~~DISAPPROVED~~
14 *Attorneys for RAM Enterprise, Inc.*

15 KATE DOORLEY **APPROVED** / ~~DISAPPROVED~~
16 *Attorneys for DIP Lenders*

17 I certify that this is a case under Chapter 7 or 13, that I have served a copy of this
18 order with the motion pursuant to LR 9014(g), and that no party has objected to the form or
19 content of the order.

20 Prepared and submitted by:

21 McDONALD CARANO LLP

22 /s/ Ryan J. Works
23 Ryan J. Works (NSBN 9224)
24 Amanda M. Perach (NSBN 12399)
25 2300 West Sahara Avenue, Suite 1200
26 Las Vegas, Nevada 89102

27 ALLEN OVERY SHEARMAN STERLING US LLP
28 Fredric Sosnick (New York Bar No. 2472488) (*pro hac pending*)
Sara Coelho (New York Bar No. 4530267) (*pro hac pending*)
599 Lexington Avenue
New York, New York 10022

Proposed Counsel to the Debtors and Debtors in Possession

Schedule E

Interim Order Authorizing the Debtors to (I) Pay Prepetition Employee Wages, Salaries, and Other Compensation, (II) Reimburse Prepetition Business Expenses, (III) Continue Prepetition Employee Benefits Programs, (IV) Make Payments for Which Prepetition Payroll Deductions Have Been Withheld and Pay Certain Employment-Related Taxes, (V) Pay Amounts That Were Awarded Under the Debtors' 2023 Short Term Incentive Program, and (VI) Pay All Costs and Expenses Incident to the Foregoing

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Honorable Hilary L. Barnes
United States Bankruptcy Judge



Entered on Docket
June 17, 2024

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

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In re:

NEVADA COPPER, INC.,¹

Debtor.

Joint Administration Requested

Case No. 24-50566-hlb
Chapter 11

Hearing Date: June 13, 2024
Hearing Time: 1:30 p.m.

INTERIM ORDER AUTHORIZING THE DEBTORS TO (I) PAY PREPETITION EMPLOYEE WAGES, SALARIES, AND OTHER COMPENSATION, (II) REIMBURSE PREPETITION BUSINESS EXPENSES, (III) CONTINUE PREPETITION EMPLOYEE BENEFITS PROGRAMS, (IV) MAKE PAYMENTS FOR WHICH PREPETITION PAYROLL DEDUCTIONS HAVE BEEN WITHHELD AND PAY CERTAIN EMPLOYMENT-RELATED TAXES, (V) PAY AMOUNTS THAT WERE AWARDED UNDER THE DEBTORS' 2023 SHORT TERM INCENTIVE PROGRAM, AND (VI) PAY ALL COSTS AND EXPENSES INCIDENT TO THE FOREGOING

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Upon the motion (the "*Motion*")² of the Debtors for entry of an interim order (this "*Interim Order*") authorizing, but not directing, the Debtors, *inter alia*, to (i) pay all prepetition employee wages, salaries and other accrued compensation, (ii) reimburse prepetition business expenses, (iii) continue prepetition employee benefits programs (including by making contributions in connection therewith, and continuing such programs on a post-petition basis), (iv) make all payments for which prepetition payroll deductions have been withheld and pay certain employment-related taxes, (v) pay amounts that were awarded under the Debtors' 2023 short term incentive program, (vi) pay all costs and expenses incident to the foregoing, and

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¹ The Debtors in these chapter 11 cases and the last four digits of their registration numbers in the jurisdiction in which they are organized are: Nevada Copper, Inc. (1157) (Nevada); Nevada Copper Corp. (5323) (British Columbia); 0607792 B.C. Ltd. (2524) (British Columbia); Lion Iron Corp. (2904) (Nevada); NC Farms LLC (0264) (Nevada); and NC Ditch Company LLC (4396) (Nevada).

² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Motion.

1 (vii) setting the date of a final hearing and granting related relief; and it appearing that this Court
2 has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; and it appearing that
3 this is a core proceeding pursuant to 28 U.S.C. § 157(b), and that this Court may enter a final
4 order consistent with Article III of the United States Constitution; and venue being proper before
5 this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and, under the circumstances, proper and
6 adequate notice of the Motion and the hearing thereon having been given; and it appearing that
7 no other or further notice being necessary; and this Court having reviewed the Motion and
8 having heard the statements in support of the relief requested therein at a hearing before this
9 Court; and it appearing that the legal and factual bases set forth in the Motion establish just cause
10 for the relief granted herein; and this Court having determined that the relief sought in the
11 Motion is in the best interests of the Debtors, their estates, their creditors and other parties in
12 interest; and after due deliberation and sufficient cause appearing therefor;

13 IT IS HEREBY ORDERED THAT:

14 1. The Motion is GRANTED as set forth herein.

15 2. The Debtors are authorized, but not directed, to honor and pay all prepetition
16 claims and obligations related to the Prepetition Compensation Obligations, up to a maximum
17 amount for any individual that equals, together with any unpaid Prepetition Unpaid Employee
18 Benefits, \$15,150 per individual, and approximately \$1,483,500, in the aggregate for amounts
19 paid to Employees.

20 3. The Debtors are authorized, but not directed, to honor and continue their Leave
21 Policies, including paying amounts thereunder, in the ordinary course of business and consistent
22 with prepetition practices, regardless of when the benefits under the Leave Policies accrued,
23 *provided, however*, the Debtors shall not pay any Employee in cash on account of the Leave
24 Policies prior to entry of a final order granting the relief requested in the Motion.

25 4. The Debtors are authorized, but not directed, to honor and to pay all prepetition
26 claims and obligations related to and including the following: (i) Unpaid Medical Plan
27 Expenses; (ii) Unpaid Insurance Expenses; (iii) Unpaid Short-Term Disability Insurance
28 Expenses; (iv) Unpaid Long-Term Disability Insurance Expenses; (v) Unpaid Workers'

1 Compensation Insurance Expenses; (vi) Unpaid Contributions; (vii) U.S. Additional Benefits;
2 (viii) Unpaid Canadian Benefits; and (ix) Unpaid Canadian Workers' Compensation Insurance
3 Expenses (collectively, the "***Prepetition Unpaid Employee Benefits***"); *provided, however*, that
4 absent further order of this Court, the aggregate amount of such payments for Prepetition Unpaid
5 Employee Benefits paid directly (and not *via* effecting an offset) shall not exceed \$633,500.

6 5. The Debtors are authorized, but not directed, to honor and to pay all prepetition
7 claims and obligations related to and including the following: (i) Unpaid Reimbursable
8 Expenses; (ii) Unremitted Deductions; (iii) Unpaid Employment Taxes, including, in the case
9 of Provincial Medical Taxes, though offsetting against tax overpayments owing to the Debtors;
10 and (iv) Unpaid Third-Party Administrative Costs (collectively, the "***Prepetition Unpaid***
11 ***Employee Costs***"); *provided, however*, that absent further order of this Court, the aggregate
12 amount of such payments for Prepetition Unpaid Employee Costs paid directly (and not *via*
13 effecting an offset) shall not exceed \$288,500.

14 6. All banks, and other financial institutions are authorized to receive, process,
15 honor and pay all checks presented for payment and to honor all electronic payment requests or
16 credit card payments made by the Debtors related to the prepetition obligations described in the
17 Motion.

18 7. Nothing in this Order shall be deemed to authorize the payment of any amounts
19 subject to section 503(c) of the Bankruptcy Code.

20 8. The Debtors shall file a list under seal identifying each Employee that will receive
21 Prepetition Compensation Obligations, identifying the Employee by title or work function only,
22 together with the proposed Prepetition Compensation Obligations to be paid to such Employee,
23 the accrued prepetition vested vacation for each Employee, and, where applicable, the 2023
24 STIP, which list shall be provided on an unredacted basis to the United States Trustee and any
25 official committee of unsecured creditors appointed in the Chapter 11 Cases.

26 9. The Debtors are authorized, but not directed, to continue and/or modify, change,
27 or discontinue the Wages and Benefits on a post-petition basis, in the ordinary course of
28 business, in accordance with the Debtors' prepetition policies and practices, and, in the Debtors'

1 discretion, to pay and honor amounts related thereto, irrespective of whether such obligations
2 arose prepetition or post-petition.

3 10. Notwithstanding anything to the contrary in this Interim Order, any payment
4 made or to be made hereunder, and any authorization herein, shall be subject to the requirements
5 (if any) imposed on the debtors under any order(s) of this Court approving a postpetition debtor
6 in possession financing facility and/or the use of cash collateral (any such order, a "**Financing**
7 **Order**"), including any documentation with respect to such financing and any budget in
8 connection with such Financing Order. In the event of any conflict between the terms of this
9 Interim Order and a Financing Order, the terms of the applicable Financing Order shall control
10 (solely to the extent of such conflict). Nothing in this Interim Order authorizes the Debtors to
11 accelerate any payments not otherwise due prior to the date of the Final Hearing.

12 11. The final hearing (the "**Final Hearing**") on the Motion shall be held on July 12,
13 2024, at 10:30 a.m. (prevailing Pacific Time). Any party in interest objecting to the relief sought
14 at the Final Hearing or in the Final Order shall file and serve a written objection, which objection
15 shall be served upon: (i) proposed counsel for the Debtors, (a) Allen Overy Shearman Sterling
16 US LLP, 599 Lexington Avenue, New York, NY 10022, Attn: Fredric Sosnick and Sara
17 Coelho; (b) McDonald Carano LLP, 2300 West Sahara Avenue, Suite 1200, Las Vegas, Nevada
18 89102, Attn: Ryan J. Works; and (c) Torys LLP, 79 Wellington St. W., 30th Floor, Box 270, TD
19 South Tower Toronto, Ontario M5K 1N2 Canada, Attn: Tony DeMarinis, Mike Noel, Hanna
20 Singer and Jeremy Opolsky; (ii) the Office of the United States Trustee for Region 17, C. Clifton
21 Young Federal Building, 300 Booth Street, Room 3009, Reno, Nevada 85909; (iii) counsel to
22 the DIP Lenders, (a) Akin Gump Strauss Hauer & Feld LLP, One Bryant Park, New York, NY
23 10036, Attn: Brad Kahn; 2001 K St. NW, Washington, D.C. 20006, Attn: Kate Doorley; and
24 (b) Shea Larsen PC, 1731 Village Center Circle, Suite 150, Las Vegas, NV 89134, Attn: James
25 Patrick Shea and Bart Larsen; (iv) Milbank LLP, as counsel to KfW IPEX-Bank GmbH as
26 administrative agent under the Debtors' prepetition credit agreement, 55 Hudson Yards, New
27 York, NY 10001, Attn: Tyson Lomazow; (v) Bennett Jones LLP, as counsel to Mercuria
28 Investments US, Inc., 3400 One First Canadian Place, P.O. Box 130, Toronto, Ontario M5X

1 1A4, Canada, Attn: Simon Grant; (vi) White & Case LLP, as counsel to Concord Resources
2 Limited as buyer under the Debtors' prepetition advance payment agreement, 1221 6th Avenue,
3 New York, NY 10020, Attn: Philip Abelson; (vii) Davis, Graham & Stubbs LLP, as counsel to
4 Triple Flag Mining Finance Bermuda Ltd. as purchaser under the Debtors' prepetition purchase
5 and sale agreement; 1550 17th Street, Suite 500, Denver, CO 80202, Attn: Kyler Burgi; (viii)
6 Cleary Gottlieb Steen & Hamilton LLP, as counsel to Pala Investments Limited as prepetition
7 lender, 2 London Wall Place, London, EC2Y 5AU, United Kingdom, Attn: Solomon J. Noh;
8 One Liberty Plaza, New York, NY 10006, Attn: Lisa M. Schweitzer; (ix) Kelley Drye &
9 Warren, LLP, as counsel to the DIP Agent, 3 World Trade Center, 175 Greenwich Street, New
10 York, NY 10007, Attn: James S. Carr, Esq.; and (x) counsel to any statutory committee
11 appointed in these Chapter 11 Cases, in each case so as to be received no later than June 28,
12 2024, at 11:59 p.m. (Prevailing Pacific Time). If no objections to the entry of the Final Order
13 are timely filed, this Court may enter the Final Order without further notice or a hearing.

14 12. Nothing in this Interim Order should be read to constitute a prohibition on the
15 Debtors' right to seek authority to pay any employee compensation or employee benefits for
16 which relief is not sought by the Motion or to pay any amounts in the ordinary course of business
17 consistent with the requirements of the Bankruptcy Code.

18 13. All banks and other financial institutions are authorized to receive, process, honor
19 and pay all checks presented for payment and to honor all electronic payment requests or credit
20 card payments made by the Debtors related to the prepetition obligations described in the
21 Motion.

22 14. The Debtors are authorized and empowered to take all actions necessary to
23 implement the relief granted in this Interim Order.

24 15. Notwithstanding the relief granted herein and any actions taken pursuant hereto,
25 nothing herein shall prohibit the Debtors from continuing or modifying, changing, or otherwise
26 discontinuing the Employee Benefits Programs and Employee Benefits or implementing new
27 programs, policies, and benefits, in the ordinary course of business during these Chapter 11
28 Cases, subject to applicable law, and nothing herein shall be deemed: (i) an admission as to the

1 validity of any claim against the Debtors; (ii) a waiver of the Debtors' right to dispute any claim
2 on any grounds and raise any available defenses; (iii) a promise or requirement to pay any claim;
3 (iv) an admission that any particular claim is of a type specified or defined hereunder; (v) a
4 request to assume any executory contract or unexpired lease or a postpetition assumption or
5 adoption of any programs, policies, or agreements described herein; or (vi) a waiver of the
6 Debtors' rights under the Bankruptcy Code or any other applicable law.

7 16. Notwithstanding the relief granted herein and any actions taken pursuant to this
8 Order, nothing herein is intended to create any rights in favor of, or enhance the status of, any
9 claim held by any person.

10 17. The requirements set forth in Bankruptcy Rule 6003(b) are satisfied by the
11 contents of the Motion.

12 18. Notice of the Motion, as provided therein, is deemed good and sufficient and the
13 requirements of Bankruptcy Rule 6004(a) are satisfied by such notice.

14 19. Notwithstanding Bankruptcy Rule 6004(h), the terms and provisions of this
15 Interim Order shall be immediately effective and enforceable upon its entry.

16 20. Notwithstanding any provision in the Federal Rules of Bankruptcy Procedure to
17 the contrary, the Debtors are not subject to any stay in the implementation, enforcement or
18 realization of the relief granted in this Interim Order, and the Debtors may take, in their
19 discretion and without further delay, any action and perform any act necessary to implement
20 the relief granted in this Interim Order.

21 21. This Court shall retain jurisdiction over any and all matters arising from or related
22 to the interpretation or implementation of this Interim Order.

23 **IT IS SO ORDERED.**

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1 In accordance with LR 9021, counsel submitting this **INTERIM ORDER**
 2 **AUTHORIZING THE DEBTORS TO (I) PAY PREPETITION EMPLOYEE WAGES,**
 3 **SALARIES, AND OTHER COMPENSATION, (II) REIMBURSE PREPETITION**
 4 **BUSINESS EXPENSES, (III) CONTINUE PREPETITION EMPLOYEE BENEFITS**
 5 **PROGRAMS, (IV) MAKE PAYMENTS FOR WHICH PREPETITION PAYROLL**
 6 **DEDUCTIONS HAVE BEEN WITHHELD AND PAY CERTAIN EMPLOYMENT-**
 7 **RELATED TAXES, (V) PAY AMOUNTS THAT WERE AWARDED UNDER THE**
 8 **DEBTORS' 2023 SHORT TERM INCENTIVE PROGRAM, AND (VI) PAY ALL COSTS**
 9 **AND EXPENSES INCIDENT TO THE FOREGOING** certifies that the order accurately
 10 reflects the court's ruling and that (check one):

- 11 The Court has waived the requirement set forth in LR 9021(b)(1).
- 12 No party appeared at the hearing or filed an objection to the motion.
- 13 I have delivered a copy of this proposed order to all counsel who appeared at the
 14 hearing, and any unrepresented parties who appeared at the hearing, and each has approved or
 15 disapproved the order, or failed to respond, as indicated below [list each party and whether the
 party has approved, disapproved, or failed to respond to the document].

16 JARED A. DAY **APPROVED** / ~~DISAPPROVED~~
 17 *United States Trustee*

18 STEVEN D. JEROME **APPROVED** / ~~DISAPPROVED~~
 19 *Attorneys for RAM Enterprise, Inc.*

20 KATE DOORLEY **APPROVED** / ~~DISAPPROVED~~
 21 *Attorneys for DIP Lenders*

22 I certify that this is a case under Chapter 7 or 13, that I have served a copy of this
 23 order with the motion pursuant to LR 9014(g), and that no party has objected to the form or
 24 content of the order.
 25
 26
 27
 28

1 Prepared and submitted by:

2 McDONALD CARANO LLP

3 /s/ Ryan J. Works

4 Ryan J. Works (NSBN 9224)
5 Amanda M. Perach (NSBN 12399)
6 2300 West Sahara Avenue, Suite 1200
7 Las Vegas, Nevada 89102

8 rworks@mcdonaldcarano.com
9 aperach@mcdonaldcarano.com

10 ALLEN OVERY SHEARMAN STERLING US LLP
11 Fredric Sosnick (New York Bar No. 2472488) (*pro hac* pending)
12 Sara Coelho (New York Bar No. 4530267) (*pro hac* pending)
13 599 Lexington Avenue

14 New York, New York 10022
15 fsosnick@aoshearman.com
16 sara.coelho@aoshearman.com

17 *Proposed Counsel to the Debtors and Debtors in Possession*
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Schedule F

Interim Order (I) Authorizing the Debtors to (A) Obtain Postpetition Financing, (B) Grant Liens, Including Senior Secured Priming Liens, and Superpriority Administrative Expense Claims, and (C) Utilize Cash Collateral; (II) Granting Adequate Protection to Certain Prepetition Secured Parties; (III) Modifying the Automatic Stay; (IV) Scheduling Final Hearing; and (V) Granting Related Relief

Hilary L Barnes

Honorable Hilary L. Barnes
United States Bankruptcy Judge



Entered on Docket
June 14, 2024

UNITED STATES BANKRUPTCY COURT

DISTRICT OF NEVADA

In re:

NEVADA COPPER, INC.,¹

Debtor.

Joint Administration Requested

Case No. 24-50566-hlb
Chapter 11

Hearing Date: June 13, 2024
Hearing Time: 1:30 p.m. (PST)

INTERIM ORDER (I) AUTHORIZING THE DEBTORS TO (A) OBTAIN POSTPETITION FINANCING, (B) GRANT LIENS, INCLUDING SENIOR SECURED PRIMING LIENS AND SUPERPRIORITY ADMINISTRATIVE EXPENSE CLAIMS, AND (C) UTILIZE CASH COLLATERAL; (II) GRANTING ADEQUATE PROTECTION TO CERTAIN PREPETITION SECURED PARTIES; (III) MODIFYING THE AUTOMATIC STAY; (IV) SCHEDULING FINAL HEARING; AND (V) GRANTING RELATED RELIEF

Upon the motion (the "*Motion*"),² of the Debtors for entry of an interim order (this "*Interim Order*") and Final Order (defined below) pursuant to sections 105, 361, 362, 363, 364, 503, 506, 507 and 552 of the Bankruptcy Code, and Bankruptcy Rules 2002, 4001, 6003, 6004 and 9014 of, and Local Rules 4001 and 9006 seeking, among other things:

- (a) authorization for Nevada Copper, Inc. (the "*Borrower*") to obtain a senior secured postpetition financing on terms and conditions consistent with the terms and

¹ The Debtors in these chapter 11 cases and the last four digits of their registration numbers in the jurisdiction in which they are organized are: Nevada Copper, Inc. (1157) (Nevada); Nevada Copper Corp. (5323) (British Columbia); 0607792 B.C. Ltd. (2524) (British Columbia); Lion Iron Corp. (2904) (Nevada); NC Farms LLC (0264) (Nevada); and NC Ditch Company LLC (4396) (Nevada).

² Capitalized term used but not defined herein have the meanings ascribed to such terms in the Motion.

1 conditions set forth in the Senior Secured Superpriority Term Loan Debtor in
2 Possession Credit Agreement by and among the Borrower, each of the Debtors
3 other than the Borrower, (collectively, the “**Guarantors**,” and together with
4 Borrower, the “**DIP Loan Parties**”), U.S Bank Trust Company, National
5 Association, as administrative agent and collateral agent (the “**DIP Agent**”), one or
6 more affiliates of Elliott Investment Management L.P., as lenders (collectively, the
7 “**DIP Lenders**” and, together with the DIP Agent, the “**DIP Secured Parties**”) (as
8 amended, restated, amended and restated, supplemented or otherwise modified
9 from time to time, the “**DIP Credit Agreement**”) attached to this Interim Order at
10 Exhibit A, and for the Guarantors to unconditionally guaranty, on a joint and
11 several basis, the Borrower’s obligations in connection with such postpetition
12 financing, consisting of: (i) a new money term loan in an aggregate principal
13 amount not to exceed at any time outstanding aggregate principal commitments of
14 \$20,000,000 (the “**Interim DIP Loan**”), which will be funded as a single
15 disbursement on the date upon which all conditions set forth in Sections 12.1 and
16 12.3 of the DIP Credit Agreement have been satisfied (the “**Interim Closing Date**”);
17 (ii) subject to entry of the Final Order, a new money delayed-draw term loan to be
18 made in an aggregate principal amount not to exceed at any time outstanding
19 aggregate principal commitments of \$40,000,000 (the “**Final DIP Loan**” and,
20 together with the Interim DIP Loan, the “**DIP Facility**”), which will be funded as a
21 single disbursement on the date upon which all conditions set forth in Sections 12.2
22 and 12.3 of the DIP Credit Agreement have been satisfied;

23 (b) authorization for the DIP Loan Parties to enter into any agreements, documents and
24 instruments in connection with the DIP Facility, including the DIP Credit
25 Agreement and all notices, guarantees, security agreements, ancillary documents
26 and agreements executed in connection therewith, (collectively, the “**DIP**
27 **Documents**”) on terms and conditions consistent with the DIP Credit Agreement
28 and this Interim Order, and to perform their respective obligations thereunder and
all such other and further acts as may be necessary, appropriate or desirable in
connection with the DIP Documents;

(c) authorization for the Debtors to grant to the DIP Agent, for the benefit of itself and
the DIP Lenders, and authorizing the Debtors to incur, the DIP Liens (as defined
below) in all DIP Collateral (as defined below), to secure the DIP Obligations (as
defined below), which liens and security interests shall be automatically perfected
and be subject to the lien priorities set forth in the DIP Credit Agreement, on the
terms and conditions set forth herein, in the DIP Credit Agreement and in the DIP
Documents;

(d) authorization for the Debtors to grant to the DIP Agent, for the benefit of itself and
the DIP Lenders, allowed superpriority administrative expense claims against each
of the Debtors, on a joint and several basis, in respect of all DIP Obligations (as
defined below), with priority over any and all administrative expenses of any kind
or nature, subject and subordinate only to the Carve-Out and the Administration
Charge (as defined below), on the terms and conditions set forth herein and in the
DIP Documents;

(e) authorization for the Debtors to use the proceeds of the DIP Facility and the
Prepetition Collateral (as defined below), including Cash Collateral (as defined
below), in accordance with the terms hereof, including pursuant to the Approved
Budget (as defined below) as further described herein, to: (i) pay fees and interest
under the DIP Facility; (ii) provide working capital for, and for other general
corporate purposes of, the Debtors, including for funding the Carve-Out (as defined

1 below); (iii) pay for bankruptcy-related costs and expenses, including costs and
2 expenses incurred in connection with the Recognition Proceedings (as defined
3 below); and (iv) pay Adequate Protection Payments (as defined below);

4 (f) authorization for the Debtors to pay, on a final and irrevocable basis, the principal,
5 interest, expenses, fees, premiums and other amounts payable under the DIP
6 Documents as such become earned, due and payable, including, without limitation,
7 (i) the Upfront Fee, (ii) the Unused Commitment Fee, (iii) the Exit Fee, (iv) the
8 Agency Fee (each as defined in the DIP Credit Agreement), and (iv) the reasonable
9 fees and disbursements of the DIP Secured Parties' attorneys, advisors, accountants,
10 appraisers, bankers, and other consultants, all to the extent provided in, and in
11 accordance with the DIP Documents (collectively, the "**DIP Obligations**");

12 (g) authorization to grant adequate protection to the Prepetition Secured Parties (as
13 defined below) on the terms set forth in the DIP Documents and this Interim Order
14 on account of any Diminution in Value (as defined below) of the Prepetition
15 Secured Parties' interests in the Prepetition Collateral, including Cash Collateral;

16 (h) waivers of (i) the Debtors' and the estates' rights to surcharge against the DIP
17 Collateral or the Prepetition Collateral pursuant to the Bankruptcy Code section
18 506(c), (ii) the "equities of the case" exception under Bankruptcy Code section
19 552(b) and (iii) the equitable doctrine of marshalling with respect to the DIP
20 Collateral, including all Prepetition Collateral, in each case, subject to entry of the
21 Final Order (but retroactive to the Petition Date);

22 (i) subject to the terms of this Interim Order, authorization for the DIP Secured Parties
23 to exercise remedies under the DIP Documents on the terms described herein upon
24 the occurrence and during the continuance of a Termination Event (as defined
25 below);

26 (j) the modification of the automatic stay imposed pursuant to Bankruptcy Code
27 section 362 to the extent necessary to implement and effectuate the terms of this
28 Interim Order; and

(k) that this Court schedule a final hearing (the "**Final Hearing**") to consider entry of
a final order (the "**Final Order**") authorizing and approving, on a final basis, among
other things, the Debtors' entry into the DIP Facility, the borrowings under the DIP
Facility, the continued use of Cash Collateral and the granting of adequate
protection, in each case, as described in the Motion and as set forth in the DIP
Documents.

The Court having held a hearing to consider entry of this Interim Order (the "**Interim Hearing**");
and the Court having considered the Motion and the exhibits thereto, the *Declaration of Zul Jamal*
in support of the Debtors' Motion for Entry of Interim and Final Orders (I) Authorizing the Debtors
to (A) Obtain Postpetition Financing, (B) Grant Liens, Including Senior Secured Priming Liens
and Superpriority Administrative Expense Claims, and (C) Utilize Cash Collateral; (II) Granting
Adequate Protection to the Certain Prepetition Secured Parties; (III) Modifying the Automatic
Stay; (IV) Scheduling Final Hearing; and (V) Granting Related Relief (the "**DIP Declaration**"),

1 the evidence submitted or proffered and the arguments of counsel made at the Interim Hearing;
2 and proper and sufficient notice of the Motion and the Interim Hearing having been given in
3 accordance with Bankruptcy Rules 2002, 4001(b), (c) and (d), and 9014; and all objections, if any,
4 to the relief requested in the Motion and to the entry of this Interim Order having been withdrawn,
5 resolved or overruled by the Court; and it appearing to the Court that granting the relief requested
6 in necessary to avoid immediate and irreparable harm to the Debtors and their estates pending the
7 Final Hearing and otherwise is fair and reasonable and in the best interests of the Debtors, their
8 estates, creditors and parties in interest; and after due deliberation and consideration, and for good
9 and sufficient cause appearing therefor; IT IS FOUND AND DETERMINED THAT:³

10 A. **Petition Date.** On June 9, 2024 (the “*Petition Date*”), each of the Debtors filed a
11 voluntary petition for relief under chapter 11 of the Bankruptcy Code in this Court.

12 B. **Debtors in Possession.** The Debtors have continued in the management and
13 operation of their business and properties as debtors in possession pursuant to sections 1107 and
14 1108 of the Bankruptcy Code.

15 C. **Jurisdiction and Venue.** This Court has jurisdiction over the Chapter 11 Cases
16 commenced on the Petition Date, the Motion and the parties and property affected hereby pursuant
17 to 28 U.S.C. §§ 157 and 1334. Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408
18 and 1409. This is a core proceeding pursuant to 28 U.S.C. § 157(b).

19 D. **Committee Formation.** As of the date hereof, the United States Trustee for Region
20 17 (the “*U.S. Trustee*”) has not yet appointed an official committee of unsecured creditors in these
21 Chapter 11 Cases (a “*Creditors’ Committee*”) pursuant to section 1102 of the Bankruptcy Code.

22 E. **Notice.** Under the circumstances, the notice given by the Debtors of, and described
23 in the Motion, the relief requested therein, and the Interim Hearing constitutes due and sufficient
24 notice thereof and complies with the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules,

25
26 ³ The findings and conclusions set forth herein constitute the Court’s findings of fact and conclusions of law
27 pursuant to Bankruptcy Rule 7052, made applicable pursuant to Bankruptcy Rule 9014. To the extent that any
28 of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent any of the
following conclusions of law constitute findings of fact, they are adopted as such.

1 and no further notice of the relief sought at the Interim Hearing and the relief granted herein is
2 necessary or required.

3 F. **Debtors' Stipulations.** Without prejudice to the rights of any other party, but
4 subject to the limitations thereon contained in paragraphs 21 and 22 of this Interim Order, the
5 Debtors represent, admit, stipulate and agree as follows:

6 1. **Prepetition Senior Secured Term Loan Facility.**

7 (a) Under that certain Second Amended and Restated Credit
8 Agreement, dated as of October 28, 2022 (as amended, restated, amended and restated,
9 supplemented, or otherwise modified from time to time prior to the date hereof, the "***Prepetition***
10 ***Senior Secured Term Loan Credit Agreement***") and together with all related security agreements,
11 collateral agreements, pledge agreements, control agreements, guarantees and other documents
12 delivered or executed in connection therewith, the "***Prepetition Senior Secured Term Loan***
13 ***Documents***") by and among Borrower, as borrower, the financial institutions party thereto from
14 time to time, as lenders (the "***Prepetition Senior Secured Term Loan Lenders***"), KfW IPEX-Bank
15 GmbH ("***KfW***"), as sole lead arranger, UFK agent, as administrative agent and collateral agent (in
16 such capacities, the "***Prepetition Senior Secured Term Loan Agent***" and together with the
17 Prepetition Senior Secured Term Loan Lenders, the "***Prepetition Senior Secured Term Loan***
18 ***Parties***") the Borrower was provided with a first-lien secured term loan facility (the loans
19 borrowed thereunder, the "***Prepetition First Lien Loans***") consisting of:

20 (a) Tranche A Loans (as defined in the Prepetition Senior Secured Term Loan Credit
21 Agreement) provided by KfW, which, as of the Petition Date, amount to an
22 aggregate principal amount of approximately \$129,191,475.89 million (together
23 with all accrued interest, premiums (if any), costs, fees, expenses and other
obligations in respect thereof, the "***Prepetition Senior Secured Term Loan A***
Obligations");

24 (b) Tranche A-2 Loans (as defined in the Prepetition Senior Secured Term Loan Credit
25 Agreement) provided by Pala Investments Limited ("***Pala***"), Mercuria Investments
26 US, Inc. ("***Mercuria***") and TF R&S Canada Ltd. ("***TF Canada***," and collectively
27 with Pala and Mercuria, the "***Prepetition Senior Secured Term Loan A-2 Parties***"),
28 which, as of the Petition Date, amount to an aggregate principal amount of
approximately \$40,919,608.57 million (together with all accrued interest,
premiums (if any), costs, fees, expenses and other obligations in respect thereof,
the "***Prepetition Senior Secured Term Loan A-2 Obligations***"); and

1 (c) Tranche B Loans (as defined in the Prepetition Senior Secured Term Loan Credit
2 Agreement) provided by KfW, which, as of the Petition Date, amount to an
3 aggregate principal amount of approximately \$17,973,301.40 million (together
4 with all accrued interest, premiums (if any), costs, fees, expenses and other
5 obligations in respect thereof, the “***Prepetition Senior Secured Term Loan B***
6 ***Obligations***” and, together with the Prepetition Senior Secured Term Loan A
7 Obligations, the “***Prepetition Senior Secured KfW Term Loan Obligations***”).

8 (b) *Prepetition Senior Secured Term Loan Obligations.* As of the
9 Petition Date, the Debtors, without defense, counterclaim or offset of any kind, were jointly and
10 severally indebted and liable to the Prepetition Senior Secured Term Loan Parties under the
11 Prepetition Senior Secured Term Loan Documents in the principal aggregate amount of not less
12 than \$188,084,385.86 million, *plus* accrued and unpaid interest thereon as of the Petition Date,
13 plus all other fees, costs, expenses, indemnification obligations, reimbursement obligations,
14 charges, premiums, if any, additional interest, any other “Obligations” (as defined in the
15 Prepetition Senior Secured Term Loan Documents) and all other obligations of whatever nature
16 owing, whether or not contingent, whenever arising, accrued, accruing, due, owing or chargeable
17 under the Prepetition Senior Secured Term Loan Documents (collectively, the “***Prepetition Senior***
18 ***Secured Term Loan Obligations***”). The Prepetition Senior Secured Term Loan Obligations
19 constitute legal, valid, binding and non-avoidable obligations against each of the Debtors and are
20 not subject to any avoidance, recharacterization, effect, counterclaim, defense, offset,
21 subordination, other claims, cause of action or other challenge of any kind under the Bankruptcy
22 Code, under applicable non-bankruptcy law or otherwise. No payments or transfer made to or for
23 the benefit of (or obligations incurred to or for the benefit of) the Prepetition Senior Secured Term
24 Loan Parties by or on behalf of any of the Debtors prior to the Petition Date under or in connection
25 with any of the Prepetition Senior Secured Term Loan Documents are subject to avoidance,
26 recharacterization, effect, counterclaim, defense, offset, subordination, other claim, cause of action
27 or other challenge of any kind or nature under the Bankruptcy Code, under applicable non-
28 bankruptcy law or otherwise.

(c) *Prepetition Senior Secured Term Loan Liens.* Pursuant to the
Prepetition Senior Secured Term Loan Documents, the Prepetition Senior Secured Term Loan

1 Obligations are secured by valid, binding, perfected and enforceable liens on and security interests
2 in (the “**Prepetition Senior Secured Term Loan Liens**”) the “Collateral” (as defined in the
3 Prepetition Senior Secured Term Loan Documents) (the “**Prepetition Collateral**”), subject to
4 certain permitted liens as permitted under the Prepetition Senior Secured Term Loan Documents.
5 The Prepetition Senior Secured Term Loan Liens are (i) senior to all other Prepetition Funded Debt
6 Liens (as defined below) with respect to Prepetition Collateral constituting “Project Collateral” (as
7 defined in the WCF Intercreditor Agreement (as defined below)) (the “**Non-WCF Collateral**”),
8 and (ii) subject to the Prepetition Working Capital Lien (as defined below) with respect to
9 Prepetition Collateral constituting “APA Collateral” (as defined in the WCF Intercreditor
10 Agreement) (the “**WCF Collateral**”), in each case, in accordance with the terms and conditions of
11 the WCF Intercreditor Agreement, the TF Intercreditor Agreement and the Fourth Lien
12 Intercreditor Agreement (as defined below). Each of the Debtors acknowledges and agrees that,
13 in each case as of the Petition Date, the Prepetition Senior Secured Term Loan Liens: (i) are valid,
14 binding, perfected and enforceable liens and security interests in the Prepetition Collateral, with
15 the priority set forth in the Prepetition Senior Secured Term Loan Documents and the Prepetition
16 Intercreditor Agreements; (ii) are not subject, pursuant to the Bankruptcy Code or other applicable
17 law, to avoidance, recharacterization, recovery, subordination, attack, offset, counterclaim, defense
18 or “claim” (as defined in the Bankruptcy Code) of any kind; and (iii) as of the Petition Date are
19 subject and/or subordinate only to Prepetition Prior Liens (defined below), and solely with respect
20 to the WCF Collateral, the Prepetition Working Capital Lien. In this Interim Order the term
21 “**Prepetition Prior Liens**” shall mean, in relation to any Prepetition Funded Debt Liens (defined
22 below), liens that are senior in relation to the liens securing such facility and are (1) valid,
23 enforceable, perfected, non-avoidable and in existence immediately prior to the Petition Date or
24 (2) valid, enforceable, non-avoidable and in existence immediately prior to the Petition Date, that
25 are perfected subsequent to the Petition Date as permitted by section 546(b) of the Bankruptcy
26 Code (the liens described in items (1) and (2), the “**Petition Date Perfected Liens**”), and in relation
27 to the DIP Facility, shall mean, the Petition Date Perfected Liens not to exceed a total aggregate
28

1 amount of \$12 million less the amount attributable to the RAM Liens (as defined below).⁴

2 2. **Prepetition Working Capital Facility.**

3 (a) Under that certain Advance Payment Agreement, dated as of May 6,
4 2019 (as amended, restated, amended and restated, supplemented or otherwise modified from time
5 to time prior to the date hereof, the “*Prepetition Working Capital Agreement*” and, together with
6 all related security agreements, collateral agreements, pledge agreements, control agreements,
7 guarantees and other documents, the “*Prepetition Working Capital Documents*”) by and among
8 the Borrower, as seller, and Concord Resources Limited (“*Concord*”), as purchaser (the
9 “*Prepetition Working Capital Purchaser*”) the Borrower received certain Advance Payments (as
10 defined in the Prepetition Working Capital Agreement) from the Prepetition Working Capital
11 Purchaser in exchange for the sale and delivery of certain Material (as defined in the Prepetition
12 Working Capital Documents).

13 (b) *Prepetition Working Capital Obligations.* As of the Petition Date,
14 the Borrower, without defense, counterclaim or offset of any kind, was indebted and liable to the
15 Prepetition Working Capital Purchaser under the Prepetition Working Capital Documents in the
16 aggregate principal amount of not less than \$3.0 million under the Prepetition Working Capital
17 Agreement, *plus* accrued and unpaid interest thereon as of the Petition Date, plus all other fees,
18 costs, expenses, charges, additional interest, any other “Advance Payment Obligations” as defined
19 in the WCF Intercreditor Agreement and all other obligations of whatever nature owing, whether
20 or not contingent, whenever arising, accrued, accruing, due, owing or chargeable under the
21 Prepetition Working Capital Documents (collectively, the “*Prepetition Working Capital*
22 *Obligations*”). The Prepetition Working Capital Obligations constitute legal, valid, binding and
23 non-avoidable obligations against the Borrower and are not subject to any avoidance,
24 recharacterization, effect, counterclaim, defense, offset, subordination, other claim, cause of action
25 or other challenge of any kind under the Bankruptcy Code, under applicable non-bankruptcy law

26
27 ⁴ For the avoidance of doubt, the total aggregate Petition Date Perfected Liens in relation to the DIP Facility *less*
the amount attributable to the RAM Liens (defined below), shall not exceed \$8,073,601.71.

1 or otherwise. No payments or transfers made to or for the benefit of (or obligations incurred to or
2 for the benefit of) the Prepetition Working Capital Purchaser by or on behalf of any of the Debtors
3 prior to the Petition Date under or in connection with any of the Prepetition Working Capital
4 Documents are subject to avoidance, recharacterization, effect, counterclaim, defense, offset,
5 subordination, other claim, cause of action or other challenge of any kind or nature under the
6 Bankruptcy Code, under applicable non-bankruptcy law or otherwise.

7 (c) *Prepetition Working Capital Lien.* Pursuant to the Prepetition
8 Working Capital Documents, the Prepetition Working Capital Obligations are secured by a valid,
9 binding, perfected and enforceable lien on and security interest in (the “**Prepetition Working**
10 **Capital Lien**”) the Prepetition Collateral, subject to certain permitted liens as permitted under the
11 Prepetition Working Capital Agreement. The Prepetition Working Capital Lien is (i) subject to the
12 Prepetition Senior Secured Term Loan Liens and the Prepetition TF Stream Lien (as defined
13 below) with respect to all Prepetition Collateral constituting Non-WCF Collateral and (ii) senior
14 to all other Prepetition Funded Debt Liens with respect to Prepetition Collateral constituting WCF
15 Collateral, in each case, in accordance with the terms and conditions of the WCF Intercreditor
16 Agreement, the TF Intercreditor Agreement and the Fourth Lien Intercreditor Agreement. Each of
17 the Debtors acknowledges and agrees that, in each case as of the Petition Date, the Prepetition
18 Working Capital Lien: (i) is a valid, binding, perfected and enforceable lien and security interest
19 in the Prepetition Collateral, with the priorities set forth in the Prepetition Working Capital
20 Documents; (ii) is not subject, pursuant to the Bankruptcy Code or other applicable law, to
21 avoidance, recharacterization, recovery, subordination, attack, offset, counterclaim, defense or
22 “claim” (as defined in the Bankruptcy Code) of any kind; and (iii) as of the Petition Date, is subject
23 and/or subordinate only to (1) the Prepetition Prior Liens, in relation to the Working Capital
24 Facility, and, (2) solely with respect to the Non-WCF Collateral, the Prepetition Senior Secured
25 Term Loan Liens and the Prepetition TF Stream Lien.

26 3. **Prepetition TF Stream Obligations.**

27 (a) Under that certain Metals Purchase and Sale Agreement, dated as of
28

1 December 21, 2017 (as amended, restated, amended and restated, supplemented, or otherwise
2 modified from time to time prior to the date hereof, the “*Prepetition TF Stream Agreement*” and,
3 together with all related security agreements, collateral agreements, pledge agreements, control
4 agreements, guarantees and other documents, the “*Prepetition TF Stream Documents*”) by and
5 among Borrower, as seller, NCU and its subsidiaries, as guarantor and Triple Flag International
6 Ltd. (“*Triple Flag*”) (as successor by name change to Triple Flag Mining Finance Bermuda Ltd.),
7 as purchaser (the “*Prepetition TF Stream Purchaser*”), the Prepetition TF Stream Purchaser paid
8 certain deposits to the Borrower and Borrower committed to make specified deliveries of Refined
9 Gold and Refined Silver (each as defined in the Prepetition TF Stream Agreement) to the
10 Prepetition TF Stream Purchaser.

11 (b) *Prepetition TF Stream Obligations*. As of the Petition Date, the
12 Debtors, without defense, counterclaim or offset of any kind, were jointly and severally indebted
13 and liable to the Prepetition TF Stream Purchaser under the Prepetition TF Stream Documents in
14 the aggregate principal amount of not less than \$78,269,229.75 under the Prepetition TF Stream
15 Agreement, *plus* accrued and unpaid interest thereon as of the Petition Date, plus all other fees,
16 costs, expenses, charges, additional interest, any other “*Obligations*” (as defined in the Prepetition
17 TF Stream Agreement) and all other obligations of whatever nature owing, whether or not
18 contingent, whenever arising, accrued, accruing, due, owing or chargeable under the Prepetition
19 TF Stream Documents (collectively, the “*Prepetition TF Stream Obligations*”). The Prepetition
20 TF Stream Obligations constitute legal, valid, binding and non-avoidable obligations against each
21 of the Debtors and are not subject to any avoidance, recharacterization, effect, counterclaim,
22 defense, offset, subordination, other claim, cause of action or other challenge of any kind under
23 the Bankruptcy Code, under applicable non-bankruptcy law or otherwise. No payments or
24 transfers made to or for the benefit of (or obligations incurred to or for the benefit of) the
25 Prepetition TF Stream Purchaser by or on behalf of any of the Debtors prior to the Petition Date
26 under or in connection with any of the Prepetition TF Stream Documents are subject to avoidance,
27 recharacterization, effect, counterclaim, defense, offset, subordination, other claim, cause of action
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1 or other challenge of any kind or nature under the Bankruptcy Code, under applicable non-
2 bankruptcy law or otherwise.

3 (c) *Prepetition TF Stream Lien*. Pursuant to the Prepetition TF Stream
4 Documents, the Prepetition TF Stream Obligations is secured by a valid, binding, perfected and
5 enforceable lien on and security interest in (the “*Prepetition TF Stream Lien*”) the Prepetition
6 Collateral, subject to certain permitted liens as permitted under the Prepetition TF Stream
7 Agreement. The Prepetition TF Stream Lien is (i) subject to the Prepetition Senior Secured Term
8 Loan Liens with respect to all Prepetition Collateral constituting Non-WCF Collateral, (ii) subject
9 to the Prepetition Working Capital Lien and Prepetition Senior Secured Term Loan Liens with
10 respect to Prepetition Collateral constituting WCF Collateral, and (iii) senior to the Prepetition
11 Junior Secured Term Loan Liens, in each case, in accordance with the terms and conditions of the
12 WCF Intercreditor Agreement, the TF Intercreditor Agreement and the Fourth Lien Intercreditor
13 Agreement. Each of the Debtors acknowledges and agrees that, in each case as of the Petition
14 Date, the Prepetition TF Stream Lien: (i) is a valid, binding, perfected and enforceable lien and
15 security interest in the Prepetition Collateral, with the priority set forth in the Prepetition TF Stream
16 Documents and the Prepetition Intercreditor Agreements; (ii) is not subject, pursuant to the
17 Bankruptcy Code or other applicable law, to avoidance, recharacterization, recovery,
18 subordination, attack, offset, counterclaim, defense or “claim” (as defined in the Bankruptcy Code)
19 of any kind; and (iii) as of the Petition Date is subject and/or subordinate only to (1) the Prepetition
20 Prior Liens, in relation to the Prepetition TF Stream Obligations, (2) with respect to the Non-WCF
21 Collateral, the Prepetition Senior Secured Term Loan Liens and (3) with respect to the WCF
22 Collateral, the Prepetition Working Capital Lien and the Prepetition Senior Secured Term Loan
23 Liens.

24 4. **Prepetition Junior Secured Term Loan Obligations.**

25 (a) Under that certain Third Amended and Restated Loan Agreement,
26 dated as of December 21, 2023 (as amended, restated, amended and restated, supplemented, or
27 otherwise modified from time to time prior to the date hereof, the “*Prepetition Junior Secured*
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1 **Term Loan Agreement,**” together with all related security agreements, collateral agreements,
2 pledge agreements, control agreements, guarantees and other documents, the **“Prepetition Junior**
3 **Secured Term Loan Documents,**” and, together with the Prepetition Senior Secured Term Loan
4 Documents, the Prepetition Working Capital Documents and the Prepetition TF Stream
5 Documents, the **“Prepetition Debt Documents”**), by and among NCU, as borrower, Borrower,
6 0607792 B.C. Ltd., Lion Iron Corp., NC Farms LLC and NC Ditch Company LLC, as guarantors,
7 the lenders party thereto from time to time (the **“Prepetition Junior Secured Term Loan**
8 **Lenders”**), and Pala, as lead arranger and collateral agent (the **“Prepetition Junior Secured Term**
9 **Loan Agent,**” together with the Prepetition Junior Secured Term Loan Lenders, the **“Prepetition**
10 **Junior Secured Term Loan Parties”** and, together with the Prepetition Senior Secured Term Loan
11 Parties, the Prepetition Working Capital Purchaser and the Prepetition TF Stream Purchaser the
12 **“Prepetition Secured Parties”**), NCU was provided with a junior secured term loan facility.

13 (b) *Prepetition Junior Secured Term Loan Obligations.* As of the
14 Petition Date, the Debtors, without defense, counterclaim or offset of any kind, were jointly and
15 severally indebted and liable to the Prepetition Junior Secured Term Loan Parties under the
16 Prepetition Junior Secured Term Loan Documents in the aggregate principal amount of not less
17 than \$10 million under the Prepetition Junior Secured Term Loan Agreement, *plus* accrued and
18 unpaid interest thereon as of the Petition Date, plus all other fees, costs, expenses, charges,
19 additional interest, any other **“Obligations”** (as defined in the Prepetition Junior Secured Term
20 Loan Agreement) and all other obligations of whatever nature owing, whether or not contingent,
21 whenever arising, accrued, accruing, due, owing or chargeable under the Prepetition Junior
22 Secured Term Loan Documents (collectively, the **“Prepetition Junior Secured Term Loan**
23 **Obligations”** and, together with the Prepetition Senior Secured Term Loan Obligations, the
24 Prepetition Working Capital Obligations and the Prepetition TF Stream Obligations, the
25 **“Prepetition Secured Obligations”**). The Prepetition Junior Secured Term Loan Obligations
26 constitute legal, valid, binding and non-avoidable obligations against each of the Debtors and are
27 not subject to any avoidance, recharacterization, effect, counterclaim, defense, offset,
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1 subordination, other claim, cause of action or other challenge of any kind under the Bankruptcy
2 Code, under applicable non-bankruptcy law or otherwise. No payments or transfers made to or
3 for the benefit of (or obligations incurred to or for the benefit of) the Prepetition Junior Secured
4 Term Loan Parties by or on behalf of any of the Debtors prior to the Petition Date under or in
5 connection with any of the Prepetition Junior Secured Term Loan Documents are subject to
6 avoidance, recharacterization, effect, counterclaim, defense, offset, subordination, other claim,
7 cause of action or other challenge of any kind or nature under the Bankruptcy Code, under
8 applicable non-bankruptcy law or otherwise.

9 (c) *Prepetition Junior Secured Term Loan Liens.* Pursuant to the
10 Prepetition Junior Secured Term Loan Documents, the Prepetition Junior Secured Term Loan
11 Obligations are secured by valid, binding, perfected and enforceable liens on and security interests
12 in (the “*Prepetition Junior Secured Term Loan Liens*” and, together with the Prepetition Senior
13 Secured Term Loan Liens, the Prepetition Working Capital Lien and the Prepetition TF Stream
14 Lien, the “*Prepetition Funded Debt Liens*”) the Prepetition Collateral, subject to certain permitted
15 liens as permitted under the Prepetition Junior Secured Term Loan Agreement. The Prepetition
16 Junior Secured Term Loan Liens are subject to the Prepetition Senior Secured Term Loan Liens,
17 the Prepetition Working Capital Lien and the Prepetition TF Stream Lien with respect to all
18 Prepetition Collateral, in each case, in accordance with the terms and conditions of the Fourth Lien
19 Intercreditor Agreement (as defined below). Each of the Debtors acknowledges and agrees that,
20 in each case as of the Petition Date, the Prepetition Junior Secured Term Loan Liens: (i) are valid,
21 binding, perfected and enforceable liens and security interests in the Prepetition Collateral, with
22 the priority set forth in the Prepetition Junior Secured Term Loan Documents and the Prepetition
23 Intercreditor Agreements; (ii) are not subject, pursuant to the Bankruptcy Code or other applicable
24 law, to avoidance, recharacterization, recovery, subordination, attack, offset, counterclaim, defense
25 or “claim” (as defined in the Bankruptcy Code) of any kind; and (iii) as of the Petition Date are
26 subject and/or subordinate only to the (1) Prepetition Prior Liens, in relation to the Prepetition
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28

1 Junior Secured Term Loan Obligations, (2) the Prepetition Senior Secured Term Loan Liens, (3)
2 the Prepetition Working Capital Lien, and (4) the Prepetition TF Stream Lien.

3 5. **Prepetition Intercreditor Agreements.**

4 (a) *WCF Intercreditor Agreement.* KfW, Triple Flag, Concord and the
5 Borrower are parties to that certain Working Capital Facility Intercreditor Agreement, dated as of
6 May 22, 2019, (as amended, restated, amended and restated, supplemented, or otherwise modified
7 from time to time prior to the date hereof, the “*WCF Intercreditor Agreement*”), which governs,
8 among other things, the rights, interests, obligations, priority and positions of the Prepetition
9 Senior Secured Term Loan Parties, the Prepetition Working Capital Purchaser and the Prepetition
10 TF Stream Purchaser.

11 (b) *TF Intercreditor Agreement.* KfW, Triple Flag, the Borrower, NCU
12 and NCU’s subsidiaries are party to that certain Intercreditor Agreement, dated as of May 22, 2019,
13 (as amended, restated, amended and restated, supplemented, or otherwise modified from time to
14 time prior to the date hereof, the “*TF Intercreditor Agreement*”), which governs the rights,
15 interests, obligations, priority and positions of the Prepetition Senior Secured Term Loan Parties
16 and the Prepetition TF Stream Purchaser.

17 (c) *Fourth Lien Intercreditor Agreement.* KfW, Triple Flag, Concord,
18 Pala, the Borrower, NCU and NCU’s subsidiaries are party to that certain Intercreditor Agreement,
19 dated as of October 28, 2022 (as amended, restated, amended and restated, supplemented, or
20 otherwise modified from time to time prior to the date hereof, the “*Fourth Lien Intercreditor*
21 *Agreement*” and, together with the WCF Intercreditor Agreement and the TF Intercreditor
22 Agreement, the “*Prepetition Intercreditor Agreements*”), which governs the rights, interests,
23 obligations, priority and positions of the Prepetition Senior Secured Term Loan Parties, the
24 Prepetition Working Capital Purchaser, the Prepetition TF Stream Purchaser and the Prepetition
25 Junior Secured Term Loan Parties.

26 (d) Each of the Debtors either is party to or otherwise acknowledged
27 and agreed to, and are bound by, the Prepetition Intercreditor Agreements. Pursuant to Bankruptcy
28

1 Code section 510, the Prepetition Intercreditor Agreements, and any other applicable intercreditor
2 or subordination provisions contained in any of the Prepetition Debt Documents shall (i) remain
3 in full force and effect, (ii) continue to govern the relative obligations, priorities, rights, and
4 remedies of the applicable Prepetition Secured Parties, and (iii) not be deemed to be amended,
5 altered or modified by the terms of this Interim Order unless expressly set forth herein or therein.

6 6. **Cash Collateral.** Any and all of the Debtors' cash, including any amounts
7 generated by the collection of accounts receivable, all cash proceeds of the Prepetition Collateral,
8 and the cash in the Debtors' banking, checking or other deposit accounts with financial institutions
9 as of the Petition Date (excluding cash deposits that secure any outstanding letters of credit) or
10 deposited into the Debtors' banking, checking or other deposit accounts with financial institutions
11 after the Petition Date constitutes cash collateral of the Prepetition Secured Parties within the
12 meaning of Bankruptcy Code section 363(a) (the "*Cash Collateral*").

13 7. **Adequate Protection.** Pursuant to Bankruptcy Code sections 105, 361, 362
14 and 363(e), the Prepetition Secured Parties are entitled to adequate protection of their interests in
15 the Prepetition Collateral, including the Cash Collateral, to the extent of any postpetition
16 diminution in value of their interests in the Prepetition Collateral resulting from, among other
17 things, and without limitation, (i) subordination of the Prepetition Secured Parties' interests in the
18 Prepetition Collateral, (ii) the use of Cash Collateral during the Chapter 11 Cases, (iii) the use, sale
19 or lease of any of the Prepetition Collateral, (iv) the imposition of the automatic stay pursuant to
20 Bankruptcy Code section 362(a), and/or (v) for any other reason for which adequate protection
21 may be granted under the Bankruptcy Code ("*Diminution in Value*"). Based on the Motion, the
22 DIP Declaration, and the record presented to the Court at the Interim Hearing, the terms of the
23 proposed adequate protection arrangements and of the use of the Prepetition Collateral, including
24 the Cash Collateral, are fair and reasonable and reflect the Debtors' prudent business judgment.

25 G. **Findings Regarding the DIP Facility and Use of Cash Collateral.** Based on the
26 record established and evidence presented at the Interim Hearing, including the DIP Declaration,
27 and the representations of the parties, the Court makes the following findings:

1 1. **Need for Postpetition Financing and Use of Cash Collateral.** The
2 Debtors have a need to use Cash Collateral on an interim basis and obtain credit in the form of the
3 Interim DIP Loans pursuant to the DIP Facility in order to, among other things, (a) permit the
4 orderly continuation of their business, (b) maintain business relationships with their vendors,
5 suppliers, customers and other parties, (c) make payroll, (d) pay Adequate Protection Payments
6 and (e) pay the costs of administering the Chapter 11 Cases, in each case, in compliance with, and
7 subject in all respects to, the Approved Budget, the terms hereof and the DIP Documents. The
8 ability of the Debtors to maintain business relationships with their vendors, suppliers, and
9 customers, to pay their employees, and otherwise finance their operations requires the availability
10 of working capital from the DIP Facility and the use of Cash Collateral, the absence of either of
11 which, on an interim basis as contemplated hereunder, would immediately and irreparably harm
12 the Debtors, their estates, and parties-in-interest. The Debtors do not have sufficient available
13 sources of working capital and financing to operate their business, maintain their properties in the
14 ordinary course of business, and fund the Chapter 11 Cases without the authorization to use Cash
15 Collateral and to borrow the Interim Amount. Without the ability to access the DIP Facility and
16 the authority to use Cash Collateral, the Debtors' chances for a successful chapter 11 restructuring
17 would be jeopardized.

18 2. **Priming of Prepetition Liens.** The priming of the Prepetition Funded Debt
19 Liens on the Prepetition Collateral, to the extent set forth herein, under Bankruptcy Code section
20 364(d)(1), as contemplated by this Interim Order and the DIP Facility, and as further described
21 below, will enable the Debtors to obtain the DIP Facility and, among other benefits, to continue to
22 operate their businesses for the benefit of their estates and stakeholders.

23 3. **No Credit Available on More Favorable Terms.** As set forth in the DIP
24 Declaration, the Debtors have been unable to obtain financing from sources other than the DIP
25 Lenders on terms more favorable than those provided under the DIP Facility, as set forth in the
26 DIP Documents. The Debtors have been unable to obtain adequate unsecured credit allowable
27 under Bankruptcy Code section 503(b)(1) as an administrative expense. The Debtors also have
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1 been unable to obtain sufficient credit (i) on an unsecured basis having priority over all other
2 administrative expenses, (ii) secured solely by a lien on property of the Debtors and their estates
3 that is not otherwise subject to a lien or (iii) secured solely by a junior lien on property of the
4 Debtors and their estates that is subject to a lien. Postpetition financing is not otherwise available
5 without granting the DIP Agent, for the benefit of itself and the DIP Lenders, (x) the DIP Liens (as
6 defined below) on all DIP Collateral (as defined below), as set forth herein, (y) the DIP
7 Superpriority Claims (as defined below) and (z) the other protections set forth in this Interim Order.
8 The terms of the DIP Documents and the use of Cash Collateral are fair and reasonable, reflect the
9 Debtors' exercise of sound and prudent business judgment consistent with their fiduciary duties,
10 constitute reasonably equivalent value and fair consideration and are in the best interest of the
11 Debtors' estates and stakeholders.

12 4. **Good Faith.** The DIP Facility and the Adequate Protection Obligations
13 have been negotiated in good faith and at arm's length among the Debtors, the DIP Agent, the DIP
14 Lenders, and the Prepetition Secured Parties and all of the Debtors' obligations and indebtedness
15 arising under, in respect of or in connection with the DIP Documents including, without limitation,
16 all loans made to and guarantees issued by the Debtors pursuant to this Interim Order, and all other
17 Interim DIP Loans, including, without limitation, any and all fees and other amounts approved
18 pursuant to this Interim Order, shall be deemed to have been extended by the DIP Agent and the
19 DIP Lenders in good faith as that term is used in Bankruptcy Code section 364(e) and in express
20 reliance upon the protections offered by Bankruptcy Code section 364(e). The interim DIP
21 Obligations, including, without limitation any and all fees and other amounts approved pursuant
22 to this Interim Order, and the interim DIP Liens shall be entitled to the full protection of
23 Bankruptcy Code section 364(e) in the event that this Interim Order or any provision hereof is
24 vacated, reversed or modified on appeal or otherwise, and any liens or claims granted to the DIP
25 Agent or the DIP Lenders hereunder arising prior to the effective date of any such vacatur, reversal
26 or modification of this Interim Order shall be governed in all respects by the original provisions
27 of this Interim Order, including entitlement to all rights, remedies, privileges and benefits granted
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1 herein.

2 H. **Consent of the Prepetition Secured Parties.** The Prepetition Secured Parties have
3 consented to or are deemed to consent under the applicable Prepetition Intercreditor Agreements
4 to the priming of the Prepetition Funded Debt Liens, as applicable, to the extent set forth herein,
5 and the Debtors' use of Cash Collateral, in accordance with and subject to the terms and conditions
6 provided for in this Interim Order; *provided* that nothing in this Interim Order shall constitute the
7 consent of the Prepetition Senior Secured Term Loan Agent to priming of the Prepetition Senior
8 Secured Term Loan Liens by DIP Liens securing DIP Obligations in an amount greater than \$51.4
9 million, and KfW reserves its rights with respect to the Final Order in all respects.

10 I. **Sections 506(c) and 552(b).** As a material inducement to the DIP Lenders to agree
11 to provide the DIP Facility and the Prepetition Secured Parties to agree to the use of Cash
12 Collateral, and in exchange for (i) the DIP Agent's and DIP Lenders' agreement to subordinate
13 their liens and superpriority claims to the Carve-Out to the extent set forth herein and (ii) the
14 Prepetition Secured Parties' agreement to (a) subordinate their Prepetition Funded Debt Liens and
15 the Adequate Protection Liens to the Carve-Out and the DIP Liens, each to the extent provided
16 herein, and (b) consent to the use of Cash Collateral in accordance with and subject to the
17 Approved Budget (subject to the Permitted Variances (as defined below)), the DIP Documents and
18 the terms of this Interim Order, each of the DIP Agent, the DIP Lenders and the Prepetition Secured
19 Parties is entitled to receive (1) a waiver of any "equities of the case" exceptions or claims under
20 Bankruptcy Code section 552(b), (2) a waiver of the provisions of Bankruptcy Code section
21 506(c), and (3) a waiver of the equitable doctrine of "marshaling" or any similar doctrine with
22 respect to the DIP Collateral or the Prepetition Collateral (as applicable).

23 J. **Immediate Entry.** The Debtors have requested entry of this Interim Order
24 pursuant to Bankruptcy Rule 4001(b)(2), (c) and (d) and Local Rules 4001(c)(2) and 9006. Absent
25 granting the interim relief sought by this Interim Order, the Debtors' estates could be immediately
26 and irreparably harmed. Thus, sufficient cause exists for immediate entry of this Interim Order
27 pursuant to Bankruptcy Rule 4001(b)(2), (c), and (d) and Local Rules 4001(c)(2) and 9006.

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1 Based upon the foregoing findings and conclusions, the Motion, the DIP Declaration, and
2 the record before the Court with respect to the Motion, and after due consideration and good and
3 sufficient cause appearing therefor,

4 IT IS HEREBY ORDERED THAT:

5 1. **Motion Granted.** The relief sought by the Motion is granted, and the DIP Facility
6 and the use of Cash Collateral are hereby authorized and approved, in each case, upon the terms
7 and conditions of this Interim Order and the DIP Documents.

8 2. **Objections Overruled.** Any objections to the Motion that have not been
9 withdrawn, waived or settled, and all reservations of rights or other statements inconsistent with
10 this Interim Order, are hereby denied and overruled. This Interim Order shall become effective
11 and enforceable immediately upon its entry.

12 3. **Approval and Authorization of DIP Facility.**

13 (a) *Authorization of DIP Facility and DIP Documents.* The DIP Facility is
14 hereby approved on an interim basis on the terms and conditions set forth herein. The DIP Loan
15 Parties are expressly and immediately authorized and empowered to: (i) (A) enter into and perform
16 all of their obligations, (B) as required by the DIP Lenders, execute, deliver and perform under the
17 DIP Documents and (C) pay all fees, costs, expenses, indemnities and other amounts contemplated
18 under this Interim Order and the applicable DIP Documents; and (ii) perform all acts, to make,
19 execute, deliver, enter into and perform under any and all other agreements, instruments,
20 certificates and other documents (including, without limitation, the execution and/or recordation
21 of any collateral, pledge and security documents, mortgages, deeds of trust, control agreements,
22 financing statements or other documents), and to perform all such other and further acts, that may
23 be necessary, required or desirable for the DIP Agent or the DIP Lenders to perform their
24 obligations under the DIP Facility, this Interim Order and any applicable DIP Document and to
25 implement the transactions contemplated thereunder and hereunder.

26 (b) **Authorization to Borrow.** The Debtors are hereby authorized to borrow
27 under the DIP Facility, from the period between the date of entry of this Interim Order and the
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1 Final Hearing (the “*Interim Period*”), a principal amount of up to \$20,000,000, subject to the terms
2 and conditions (including any conditions precedent to such borrowing) set forth in this Interim
3 Order and the DIP Documents. The DIP Lenders shall have no obligation to make any loan or
4 advance under the DIP Documents, unless all of the conditions precedent to the making of such
5 extension of credit under the DIP Documents and this Interim Order have been satisfied in full or
6 waived in accordance with the DIP Documents and this Interim Order.

7 (c) *Use of DIP Proceeds and Cash Collateral.* The Debtors are hereby
8 authorized to use the proceeds of the DIP Facility and all Cash Collateral solely in the manner and
9 for the purposes expressly permitted in the Approved Budget (subject to the Permitted Variances),
10 this Interim Order and the DIP Documents.

11 (d) *DIP Interest, Fees and Expenses.* The Debtors are authorized and directed
12 to pay any and all (i) interest, fees, premiums or other amounts payable under the DIP Documents,
13 including, without limitation, the Upfront Fee, the Unused Commitment Fee, the Exit Fee, the
14 Agency Fee, (ii) amounts due (or that may become due) to any Indemnified Person (as defined
15 below) in respect of the indemnification obligations under this Interim Order and the DIP
16 Documents and (iii) any other amounts payable in connection with the DIP Facility, including all
17 reasonable and documented pre- and postpetition fees, expenses and disbursements in connection
18 with the DIP Facility and these Chapter 11 Cases of (A) Akin Gump Strauss Hauer & Feld LLP
19 (“*Akin*”), as counsel to the DIP Lenders, (B) Blake, Cassels & Graydon LLP, as Canadian counsel
20 to the DIP Lenders, (C) Shea Larson PC, as Nevada local counsel to the DIP Lenders, (D) Kelley
21 Drye & Warren, LLP, as counsel to the DIP Agent (“*DIP Agent Counsel*”), and (E) any other
22 attorneys, financial advisors, consultants or other professionals retained by the DIP Secured Parties
23 (the professionals set forth in clauses (A) through (E), collectively, the “*DIP Professionals*”), in
24 each case whether or not such payments, premiums, fees, costs, expenses and disbursements arose
25 before or after the Interim Closing Date. The payment of the fees, costs, expenses and
26 disbursements of the DIP Professionals other than DIP Agent Counsel (the “*DIP Professional*
27 *Fees*”) shall be subject to the notice and review procedures set forth in paragraph 19 of this Interim
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1 Order. For the avoidance of doubt, the Debtors shall be jointly and severally liable for the
2 obligations to pay the DIP Professional Fees in accordance with this Interim Order.

3 (e) *Indemnification.* As set forth in the DIP Documents, the Debtors will jointly
4 and severally indemnify the DIP Agent, the DIP Lenders, the DIP Professionals and their respective
5 affiliates, successors and assigns and the officers, directors, employees, agents, advisors,
6 controlling persons and members of each of the foregoing (each an “*Indemnified Person*”), and
7 hold them harmless from and against any and all losses, claims, damages, costs, expenses
8 (including, but not limited to reasonable and documented legal fees and expenses) and liabilities
9 arising out of or relating to the execution or delivery of the DIP Documents, transactions
10 contemplated hereby and thereby and any actual or proposed use of the proceeds of any loans made
11 under the DIP Facility in accordance with the terms of the DIP Credit Agreement and the other
12 DIP Documents; *provided* that no such Indemnified Person will be indemnified for costs, expenses
13 or liabilities to the extent determined by a final, non-appealable judgment of a court of competent
14 jurisdiction to have been incurred solely by reason of the actual gross negligence or willful
15 misconduct of such person (or their related persons). No Indemnified Person shall have any
16 liability (whether direct or indirect, in contract, tort or otherwise) to the Debtors or any
17 shareholders or creditors of the Debtors for or in connection with the transactions contemplated
18 hereby, except to the extent such liability is found in a final non-appealable judgment by a court
19 of competent jurisdiction to have resulted solely from such Indemnified Person’s gross negligence
20 or willful misconduct, and in no event shall any Indemnified Person be liable on any theory for
21 any special indirect, consequential or punitive damages.

22 (f) *Modification of DIP Documents.* The DIP Agent (acting at the direction of
23 the Required DIP Lenders)⁵ and the Required DIP Lenders are hereby authorized to execute,
24 deliver and perform under one or more amendments, waivers, consents or other modifications to
25 and under the DIP Documents, in each case, in accordance with the provisions of any applicable

26 _____
27 ⁵ The term “*Required DIP Lenders*” as used in this Interim Order, shall have the same meaning ascribed to the
28 term “Majority Lenders” in the DIP Credit Agreement.

1 DIP Documents governing amendments thereto, each without further application to or order of the
2 Court; *provided, however*, that any amendments, waivers, consents or other modifications to and
3 under the DIP Documents that (i) modify the original stated maturity of the DIP Facility, (ii)
4 increase the aggregate commitments thereunder or (iii) increase the rate of interest or fees payable
5 with respect thereto shall require further Court approval; *provided further*, that any amendment
6 that may affect the rights, obligations, protections, immunities or indemnities of the DIP Agent
7 shall require the consent of the DIP Agent.

8 4. **DIP Obligations**

9 (a) Upon entry of this Interim Order, the obligations under any applicable DIP
10 Documents shall constitute valid, binding, enforceable, and non-avoidable obligations of each
11 Debtor, and shall be fully enforceable against each of the Debtors, their estates and any successors
12 thereto, including, without limitation, any estate representative or trustee appointed in any of these
13 Chapter 11 Cases or in any case under Chapter 7 of the Bankruptcy Code upon the conversion of
14 any of the Chapter 11 Cases, or in any other proceedings superseding or relating to any of the
15 foregoing, and/or upon the dismissal of any of the Chapter 11 Cases or any such successor cases
16 (collectively, the “*Successor Cases*”), in each case, in accordance with the terms of the DIP
17 Documents and this Interim Order.

18 (b) Upon entry of this Interim Order, the Debtors shall be jointly and severally
19 liable for all DIP Obligations, including, without limitation, all loans, advances, indebtedness,
20 obligations, extensions of credit, financial accommodations, principal, interest, payments or
21 similar amounts, fees, costs, expenses, charges, indemnification and reimbursement obligations
22 (whether contingent or absolute), and all other amounts, whether or not such obligations arose
23 before or after the Petition Date, whenever the same shall become due and payable, whether at
24 stated maturity, by required prepayment, declaration, acceleration, demand or otherwise, to the
25 DIP Lenders under the DIP Documents or this Interim Order.

26 (c) All obligations incurred, payments made and transfers or grants of liens and
27 security interests set forth in this Interim Order and/or the DIP Documents by the Debtors are
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1 granted to or for the benefit of the DIP Secured Parties for fair consideration and reasonably
2 equivalent value and are granted contemporaneously with the making of the loans and
3 commitments and other financial accommodations secured thereby. No obligation, payment,
4 transfer or grant of liens or security interests under this Interim Order or the DIP Documents to the
5 DIP Secured Parties shall be limited, stayed, restrained, voidable, avoidable or recoverable under
6 the Bankruptcy Code or under any applicable law, or subject to any challenge, objection, defense
7 or claim, including, without limitation, avoidance (whether under chapter 5 of the Bankruptcy
8 Code or under applicable law (including any applicable state law Uniform Fraudulent Transfer
9 Act, Uniform Fraudulent Conveyance Act or similar statute or common law)), reduction, setoff,
10 offset, recoupment, recharacterization, subordination (whether equitable, contractual or
11 otherwise), reclassification, disgorgement, disallowance, impairment, marshalling, surcharge,
12 recovery or other cause of action of any kind or nature whatsoever, whether arising under the
13 Bankruptcy Code, applicable non-bankruptcy law or otherwise (subject, solely in the case of the
14 DIP Professional Fees, only to the procedures set forth in paragraph 19 of this Interim Order).

15 5. **DIP Superpriority Claims**. Pursuant to Bankruptcy Code section 364(c)(1), all of
16 the DIP Obligations shall constitute allowed senior administrative expense claims of the DIP
17 Secured Parties, against each of the Debtors' estates (the "*DIP Superpriority Claims*"), without
18 the need to file any proof of claim or request for payment of administrative expenses, with priority
19 over any and all administrative expenses, adequate protection claims, diminution claims and all
20 other claims against the Debtors, now existing or hereafter arising, of any kind whatsoever,
21 including, without limitation, all administrative expenses of the kind specified in Bankruptcy Code
22 sections 503(b) and 507(b), and over any and all administrative expenses or other claims arising
23 under Bankruptcy Code sections 105, 326, 328, 330, 331, 503(b), 506(c) (subject to entry of a
24 Final Order), 507(a), 507(b), 726, 1113 or 1114 or otherwise, whether or not such expenses or
25 claims may become secured by a judgment lien or other non-consensual lien, levy or attachment,
26 which allowed claims shall for the purposes of Bankruptcy Code section 1129(a)(9)(A) be
27 considered administrative expenses allowed under Bankruptcy Code section 503(b) and 507(b),
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1 and which shall be payable from and have recourse to all prepetition and postpetition property of
2 the Debtors and all proceeds thereof, including actions to recover property transferred pursuant to
3 Bankruptcy Code section 549, and subject to the entry of the Final Order, the proceeds of, and
4 property that is recovered from or becomes unencumbered as a result of (whether by judgment,
5 settlement or otherwise), all claims and causes of action arising under chapter 5 of the Bankruptcy
6 Code or under any applicable state law of a similar nature (such claims and causes of action,
7 “**Avoidance Actions**” and the proceeds thereof, “**Avoidance Action Proceeds**”), subordinate only
8 to the Carve-Out and the administrative charge granted by the Ontario Superior Court of Justice
9 (Commercial List) (the “**Canadian Court**”) in the proceedings (the “**Recognition Proceedings**”) under
10 Part IV of the Companies’ Creditors Arrangement Act (Canada) (the “**CCAA**”) commenced
11 by the Debtors in Canada in respect of certain Canadian-related professional fees, in an aggregate
12 amount not to exceed CAD\$500,000 (the “**Administration Charge**”). Except as set forth in, or
13 permitted by, this Interim Order, or otherwise permitted pursuant to an order of this Court, no other
14 superpriority claims shall be granted or allowed in these Chapter 11 Cases.

15 6. **DIP Liens.**

16 (a) As security for the DIP Obligations, effective and automatically perfected
17 upon the date of this Interim Order, and without the necessity of the execution, recordation of
18 filings by the Debtors of mortgages, security agreements, control agreements, pledge agreements,
19 financing statements or other similar documents, or the possession or control by the DIP Agent or
20 any DIP Lender of, or over, any DIP Collateral (as defined below), the DIP Agent, for the benefit
21 of itself and the DIP Lenders, is hereby granted by the DIP Loan Parties continuing, valid, binding,
22 enforceable, non-avoidable, and automatically and properly perfected security interests in and liens
23 (collectively, the “**DIP Liens**”) upon all DIP Collateral as security for the prompt and complete
24 performance and payment when due (whether at the stated maturity, by acceleration or otherwise)
25 of all of the DIP Obligations.

26 (b) The term “**DIP Collateral**” means all assets and properties of each of the
27 Debtors and their estates, of any kind or nature whatsoever, wherever located, whether tangible or
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1 intangible, real, personal or mixed, whether now owned or consigned by or to, or leased from or
2 to, or hereafter acquired by, or arising in favor of, each of the Debtors (including under any trade
3 names, styles or derivations thereof), whether prior to or after the Petition Date, including, without
4 limitation: (i) all Prepetition Collateral (including Cash Collateral); (ii) all intercompany claims,
5 including, but not limited to, all Intercompany Superpriority Claims (as defined below); (iii) all
6 money, cash and cash equivalents; (iii) all funds in any deposit accounts (excluding cash deposits
7 that secure any outstanding letters of credit), securities accounts, commodities accounts, or other
8 accounts (together with and all money, cash and cash equivalents, instruments and other property
9 deposited therein or credited thereto from time to time); (iv) all accounts and other receivables
10 (including those generated by intercompany transactions); (v) all contracts and contract rights; (vi)
11 all instruments, documents and chattel paper; (vii) all securities (whether or not marketable); (viii)
12 all goods, as-extracted collateral, furniture, machinery, equipment, inventory and fixtures; (ix) all
13 real property interests; (x) all interests in leaseholds; (xi) all franchise rights; (xii) all patents,
14 tradenames, trademarks, copyrights, licenses and all other intellectual property; (xiii) all general
15 intangibles, tax or other refunds or insurance proceeds; (xiv) all equity interests, capital stock,
16 limited liability company interests, partnership interests and financial assets; (xv) all investment
17 property; (xvi) all supporting obligations; (xvii) all letters of credit and letter of credit rights; (xviii)
18 all commercial tort claims; (xix) subject to the entry of the Final Order, all Avoidance Action
19 Proceeds (but not avoidance actions themselves), (xx) all books and records (including, without
20 limitation, customers lists, credit files, computer programs, printouts and other computer materials,
21 and records); (xxi) to the extent not covered by the foregoing, all other goods, assets or properties
22 of the Debtors, whether tangible, intangible, real, personal or mixed; and (xxii) all products,
23 offspring, profits and proceeds of each of the foregoing and all accessions to, substitutions and
24 replacements for, and rents, profits and products of, each of the foregoing, including any and all
25 proceeds of any insurance (including any business interruption and property insurance), indemnity,
26 warranty or guaranty payable to such Debtor from time to time with respect to any of the foregoing.

1 (c) Subject in all cases to the terms of this Interim Order and the DIP
2 Documents, the DIP Secured Parties shall be granted the following DIP Liens in respect of the DIP
3 Facility:

- 4 (1) First Priority Lien on Unencumbered Property. Pursuant to Bankruptcy Code
5 section 364(c)(2), a valid, binding, continuing, enforceable and fully-perfected first
6 priority senior security interest in and lien upon all DIP Collateral that, as of the
7 Petition Date, is unencumbered and not subject to any liens (including Petition Date
8 Perfected Liens), which security interest and lien shall be junior and subordinate
9 only to (A) the Carve-Out, and (B) the Administration Charge.
- 10 (2) Priming Lien on WCF Collateral. Upon the payment in full of the obligations under
11 the Prepetition Working Capital Facility, pursuant to Bankruptcy Code section
12 364(d)(1), a valid, binding, continuing, enforceable and fully-perfected first priority
13 security interest in and lien upon all DIP Collateral that constitutes WCF Collateral,
14 which security interest and lien shall be junior and subordinate only to (A) the
15 Carve-Out, (B) the Administration Charge, (C) Petition Date Perfected Liens, and
16 (D) prior to entry of the Final Order, any security interest in or lien on the assets of
17 NCU that are in favor of Trisura Guarantee Insurance Company.
- 18 (3) Priming Lien on Non-WCF Collateral. Pursuant to Bankruptcy Code section
19 364(d)(1), a valid, binding, continuing, enforceable and fully-perfected first priority
20 security interest in and lien upon all DIP Collateral that constitutes Non-WCF
21 Collateral, *provided* that such lien shall be junior and subordinate only to (A) the
22 Carve-Out, (B) the Administration Charge and (C) Petition Date Perfected Liens,
23 and (D) prior to entry of the Final Order, any security interest in or lien on the assets
24 of NCU that are in favor of Trisura Guarantee Insurance Company.
- 25 (4) Lien on Intercompany Superpriority Claims. Pursuant to Bankruptcy Code section
26 364(d)(1), a valid, binding, continuing, enforceable and fully-perfected first priority
27 priming security interest in and lien on all claims in respect of intercompany
28 transfers of proceeds from the DIP Facility or of Cash Collateral from any Debtor
to NCU (the "Intercompany Superpriority Claims"), *provided* that such lien shall
be junior and subordinate only to (A) the Carve-Out, (B) the Administration
Charge, and (C) Petition Date Perfected Liens (excluding any Prepetition Trisura
Lien).

(d) To the fullest extent permitted by the Bankruptcy Code or applicable law,
any provision of any lease, loan document, easement, use agreement, proffer, covenant, license,
contract, organizational document or other instrument or agreement that requires the consent or
the payment of any fees or obligations to any governmental entity or non-governmental entity for
the Debtors to pledge, grant, mortgage, sell, assign or otherwise transfer any fee or leasehold
interest or the proceeds thereof or other DIP Collateral, shall have no force or effect with respect
to the DIP Liens on such leasehold interests or other applicable DIP Collateral or the proceeds of

1 any assignment and/or sale thereof by any Debtor, in favor of the DIP Secured Parties in
2 accordance with the terms of the DIP Documents and this Interim Order.

3 (e) With respect to priming liens provided on DIP Collateral in favor of the DIP
4 Secured Parties pursuant to this Interim Order, as set forth in sections 6(c)(2) and (3) above, such
5 liens shall be junior and subordinate to the \$3,926,398.29 million prepetition liens of RAM
6 Enterprise, Inc. (“**RAM**” and RAM’s liens, the “**RAM Liens**”) that were valid, fully perfected,
7 secured and enforceable as of the Petition Date; *provided* that, the Debtors’ right, and the right of
8 other parties in interest, to contest the legality, validity, priority, secured status, perfection, or
9 enforceability of the RAM Liens shall be preserved, and nothing in this Interim Order shall impact
10 any relief sought by the Debtors, or other parties in interest, with respect to the RAM Liens
11 pursuant to a Final Order, including priming such liens or demonstrating that such liens are
12 adequately protected; *provided further* that, the claims secured by the RAM Liens permitted
13 pursuant to this paragraph (e) shall not exceed \$3,926,398.29. For the avoidance of doubt this
14 Interim Order: (i) shall not impact the priority of the RAM Liens relative to any creditor other than
15 the DIP Secured Parties; (ii) the priming liens provided on DIP Collateral are junior to the RAM
16 Liens and therefore, if the property securing the RAM Liens (the “**RAM Collateral**”) is sold or
17 transferred, the DIP Secured Parties shall not recover from any proceeds resulting from the sale or
18 transfer of the RAM Collateral unless and until the RAM Liens have been satisfied in full; and (iii)
19 all of RAM’s rights to argue for adequate protection or assert any claim against the estate, including
20 but not limited to a claim resulting from any diminution in value, are preserved. RAM’s objection
21 filed at ECF No. 48 (and subsequently amended at ECF No. 65) is not overruled by this Interim
22 Order and is deferred to the Final Hearing.

23 (f) For the avoidance of doubt, the Debtors’ right and the rights of other parties
24 in interest to contest the legality, validity, priority, perfection, or enforceability of any Petition Date
25 Perfected Liens shall be preserved, and nothing in this Interim Order shall impact any relief sought
26 by the Debtors with respect to the Petition Date Perfected Liens, including priming such liens or
27 demonstrating that such liens are adequately protected pursuant to a final order.

1 7. **Use of DIP Collateral and Cash Collateral**

2 (a) The Debtors are hereby authorized to use the proceeds of DIP Facility and
3 all Cash Collateral solely to the extent expressly permitted under the Approved Budget (subject to
4 the Permitted Variances) and subject to the terms and conditions set forth in this Interim Order and
5 any applicable DIP Documents. Except on the terms and conditions of this Interim Order, the
6 Debtors shall be enjoined and prohibited from at any time using the Cash Collateral absent further
7 order of the Court.

8 (b) Without the prior written consent of the Required DIP Lenders, the Debtors
9 shall not sell, transfer, lease, encumber or otherwise dispose of any portion of the DIP Collateral
10 (or enter into any binding agreement to do so), except as may be expressly permitted by this Interim
11 Order and any applicable DIP Documents. All proceeds of DIP Collateral, whether from ordinary
12 course collections, asset sales, debt or equity issuances, insurance recoveries, condemnation or
13 otherwise, will be deposited and applied as required by this Interim Order and any applicable DIP
14 Documents. The Debtors shall not transfer any cash, assets, properties or other DIP Collateral to
15 any affiliate of the Debtors that is not a Debtor in these Chapter 11 Cases without the prior written
16 consent of the Required DIP Lenders, in their sole discretion.

17 (c) Proceeds of the DIP Facility constitute postpetition assets of the Debtors,
18 subject only to the Carve Out, Administrative Charge, DIP Liens, and adequate protection liens of
19 the Prepetition Secured Parties, with the priorities set forth herein, and shall, for the avoidance of
20 doubt, not be subject to any liens arising from prepetition claims against any of the Debtors,
21 whether perfected prior to the Petition Date, after the Petition Date pursuant to section 546(b) of
22 the Bankruptcy Code, or otherwise, regardless of where or how held. The Debtors may deposit
23 proceeds of the DIP Facility into their existing bank accounts, and such proceeds shall not be
24 subject to any liens or claims arising prepetition, including pursuant to chapter 108 of the Nevada
25 Revised Statutes, whether or not eligible for perfection after the Petition Date, except for junior
26 liens or claims of the Prepetition Secured Parties, as set forth herein. For the avoidance of doubt,
27 to the extent of any proceeds of the DIP Facility deposited therein, no bank account of the Debtors
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1 may be a “construction disbursement account” for purposes of chapter 108 of the Nevada Revised
2 Statutes.

3 8. **Budget**

4 (a) *Initial Budget*. The Debtors have prepared and delivered to the DIP Lenders
5 and the DIP Professionals an itemized thirteen-week cash flow forecast attached hereto as **Exhibit**
6 **B** (the “*Initial Budget*,” as amended, replaced, supplemented or otherwise modified from time to
7 time in accordance with the terms of this Interim Order and the DIP Documents, the “*Approved*
8 *Budget*”). Except as otherwise provided herein or in the DIP Documents, the Debtors may only
9 use Cash Collateral and the proceeds of the DIP Facility to fund payments benefitted by the Carve-
10 Out and otherwise in accordance with the Approved Budget (subject to the Permitted Variances).

11 (b) *Proposed Budget; Budget Transition*. By no later than 12:00 p.m. (Pacific
12 Time) on the third Thursday after the Petition Date (commencing from June 27, 2024), and
13 continuing at 12:00 p.m. (Pacific Time) on the Thursday of every second week thereafter, the
14 Debtors shall deliver to the DIP Lenders, DIP Professionals, and KfW an updated and
15 supplemented forecast (a “*Proposed Budget*”) for the thirteen-week period commencing with the
16 calendar week in which such Proposed Budget is delivered (the “*Budgeted Period*”); *provided,*
17 *however,* that in no event shall the Budgeted Period extend past four weeks after the Maturity Date
18 (as defined in the DIP Credit Agreement) of the DIP Facility. For the avoidance of doubt, if the
19 Budgeted Period is anticipated to extend beyond the Maturity Date, the projected receipts,
20 disbursements, intercompany transfers and all other line items set forth in the Proposed Budget for
21 all weeks following the Maturity Date shall assume that the Debtors continue to operate in the
22 ordinary course consistent with prior postpetition practices and that no sale of the Debtors’
23 business will occur during such portion of the Budgeted Period. The Proposed Budget (including
24 any subsequent revisions to any such Proposed Budget) shall become the Approved Budget
25 effective five (5) business days after such submission (such date, the “*Budget Transition Date*”)
26 unless the Debtors receive a written objection from the Required DIP Lenders (with e-mail from
27 professionals acting on behalf of the Required DIP Lenders to the Debtors’ counsel being
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1 sufficient) prior to 5:00 p.m. (Pacific Time) on the Budget Transition Date. If the Required DIP
2 Lenders do not object, in writing, to a Proposed Budget, or an amendment, supplement or
3 modification to the Approved Budget or Approved Variance Report (defined below) within five
4 (5) business days after the Required DIP Lenders' receipt thereof, then such Proposed Budget,
5 amendment, supplement or modification shall be deemed acceptable to and approved by the DIP
6 Lenders. In the event the Required DIP Lenders timely object to a Proposed Budget, the prior
7 Approved Budget shall remain in full force and effect until any such Proposed Budget is approved
8 by the Required DIP Lenders (with e-mail from the advisors acting on behalf of the Required DIP
9 Lenders to the Debtors' counsel being sufficient). The consent of the Required DIP Lenders to
10 any Proposed Budget or any Approved Budget shall not be construed as consent to the use of any
11 Cash Collateral or proceeds of the DIP Facility after the occurrence of a Termination Event
12 regardless of whether the aggregate funds shown on the Approved Budget have been
13 expended. Until any Proposed Budget, amendment, supplement or modification has been
14 approved (or is deemed approved in accordance with this paragraph) by the Required DIP Lenders,
15 the Debtors shall be subject to and be governed by the terms of the Approved DIP Budget then in
16 effect.

17 (c) *Budget Reporting*. By no later than 12:00 p.m. (Pacific Time) on the second
18 Thursday following the Petition Date (the "**First Reporting Date**", which, for the avoidance of
19 doubt, shall be June 20, 2024), and no later than 12:00 p.m. (Pacific Time) on each Thursday
20 thereafter (together with the First Reporting Date, each a "**Weekly Reporting Date**"), the Debtors
21 shall provide to the DIP Lenders (and their advisors) and KfW (and its counsel) a report, in form
22 and substance reasonably acceptable to the DIP Lenders (the "**Weekly Variance Report**"), setting
23 forth in reasonable detail: (i) the intercompany transfers from Debtor entities to NCU on a Debtor-
24 by-Debtor and an aggregate basis; (ii) the actual receipts of the Debtors on a line-by-line and
25 aggregate basis (the "**Actual Receipts**") and the actual disbursements of the Debtors on a line-by-
26 line and aggregate basis (such aggregate actual disbursements, the "**Actual Disbursements**"), in
27 each case, during the applicable week ending on the Sunday preceding each such Weekly
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1 Reporting Date (each such week, the “**Reporting Week**”); (iii) a comparison (whether positive or
2 negative, expressed as a percentage) for the Reporting Week between (A) the Actual Receipts (and
3 each line item thereof) for such Reporting Week to the amount of the Debtors’ projected receipts
4 (and each line item thereof) set forth in the Approved Budget for such Reporting Week, (B) the
5 Actual Disbursements (and each line item thereof) for such Reporting Week to the amount of the
6 Debtors’ projected disbursements (and each line item thereof) set forth in the Approved Budget for
7 such Reporting Week and (C) the actual intercompany transfers from each Debtor entity to NCU
8 to the amount of each such Debtor’s projected intercompany transfers to NCU set forth in the
9 Approved Budget for such Reporting Week. In addition, by no later than 12:00 p.m. (Pacific Time)
10 on each Weekly Reporting Date that occurs on and after the three-week anniversary of the First
11 Reporting Date, (each such date, a “**Rolling Four-Week Testing Date**” (which such initial Rolling
12 Four-Week Testing Date shall be July 11, 2024) and each subsequent four-week period
13 commencing from the beginning of the week in which the Petition Date occurs and ending on the
14 Sunday preceding each such Rolling Four-Week Testing Date, a “**Rolling Four-Week Testing**
15 **Period**”) the Debtors shall provide the DIP Lenders (and their advisors) and KfW (and its counsel)
16 a report, in form and substance reasonably acceptable to the DIP Lenders (a “**Rolling Four-Week**
17 **Variance Report**” and, together with the Weekly Variance Report, the “**Approved Variance**
18 **Reports**”), setting forth in reasonable detail: (x) the aggregate Actual Receipts of the Debtors,
19 aggregate Actual Disbursements of the Debtors, and aggregate intercompany transfers from each
20 Debtor entity to NCU, in each case, during the applicable Rolling Four-Week Testing Period; and
21 (y) a comparison (whether positive or negative, expressed as a percentage) detailing (1) the
22 aggregate Actual Receipts (and each line item thereof) for such Rolling Four-Week Testing Period
23 compared to the projected receipts (and each line item thereof) for such Rolling Four-Week Testing
24 Period set forth in the Approved Budget for such Rolling Four-Week Testing Period; (2) the
25 aggregate Actual Disbursements (and each line item thereof) for such Rolling Four-Week Testing
26 Period compared to the projected disbursements (and each line item thereof) for such Rolling Four-
27 Week Testing Period set forth in the Approved Budget for such Rolling Four-Week Testing Period;
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1 and (3) the aggregate intercompany transfers from each Debtor entity to NCU made by each such
2 Debtor during such Rolling Four-Week Testing Period compared to the aggregate projected
3 intercompany transfers from each such Debtor entity to NCU for such Rolling Four-Week Testing
4 Period set forth in the Approved Budget for such Rolling Four-Week Testing Period.

5 (d) *Budget Testing; Permitted Variances.* During any Rolling Four-Week
6 Testing Period, the Debtors shall not permit (1) total disbursements, minus (2) disbursements in
7 respect of (i) interest, fees, and expenses in relation to the DIP Facility; (ii) Adequate Protection
8 Obligations; (iii) DIP Professional Fees; and (iv) professional fees paid by the Debtors on behalf
9 of themselves or any other party (the disbursements remaining after such subtractions, the “**Total**
10 **Tested Disbursements**”) to be more than 120% of such Total Tested Disbursements set forth in the
11 Approved Budget for such Rolling Four-Week Testing Period (collectively, the “**Permitted**
12 **Variances**”). Additional disbursement variances, if any, from an Approved Budget, and any
13 proposed amendments, supplements or modifications to an Approved Budget, shall be subject to
14 the prior written approval of the Required DIP Lenders. For the avoidance of doubt, any reference
15 to “written consent” or “written approval” hereunder shall include consent or approval granted by
16 e-mail, including email from counsel to the DIP Lenders on behalf of the DIP Lenders.

17 9. **Reporting Requirements; Access to Records.** The Debtors shall provide (i) Akin,
18 as counsel to the DIP Lenders, (ii) Milbank LLP (“**Milbank**”), as counsel to KfW, (iii) White &
19 Case LLP, as counsel to Concord, (iv) Davis, Graham & Stubbs LLP, as counsel to Triple Flag (v)
20 Cleary, Gottlieb, Steen & Hamilton LLP, as counsel to Pala, (vi) Bennett Jones LLP, as counsel to
21 Mercuria, and (vii) Alvarez & Marsal Canada Inc., in its capacity as the Information Officer in the
22 Recognition Proceedings, with all reporting and other information required to be provided to the
23 DIP Agent under the DIP Documents. In addition to, and without limitation, whatever rights to
24 access the DIP Secured Parties or KfW have under the DIP Documents, upon reasonable notice, at
25 reasonable times during normal business hours, the Debtors shall permit representatives, agents
26 and employees of the DIP Secured Parties and KfW to (x) have access to and inspect the Debtors’
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1 assets, (y) examine the Debtors' books and records and (z) discuss the Debtors' affairs, finances
2 and condition with the Debtors' officers and financial advisors.

3 10. **Adequate Protection for the Prepetition Secured Parties.** Pursuant to
4 Bankruptcy Code sections 361, 363, and 364, and in consideration of the stipulations and consents
5 set forth herein, as adequate protection of their interests in the Prepetition Collateral (including
6 Cash Collateral), for and equal in amount to the aggregate postpetition Diminution in Value of
7 such interests, the Prepetition Secured Parties are hereby granted the following (collectively, the
8 "***Adequate Protection Obligations***"):

9 (a) ***Adequate Protection Liens.*** As security for and solely to the extent of any
10 Diminution in Value, the Prepetition Secured Parties are hereby granted additional and replacement
11 valid, binding, enforceable, non-avoidable and effective and automatically perfected postpetition
12 security interests in, and liens on, as of the date of this Interim Order (the "***Adequate Protection***
13 ***Liens***"), subject in all cases to the priorities set forth on **Exhibit C** hereto, without the necessity of
14 the execution by the Debtors (or recordation or other filing) of security agreements, control
15 agreements, pledge agreements, financing statements, mortgages or other similar documents, all
16 DIP Collateral.

17 (b) ***Adequate Protection Superpriority Claims.*** As further adequate protection,
18 and to the extent provided by Bankruptcy Code sections 503(b) and 507(b), the Prepetition Secured
19 Parties are hereby granted allowed administrative expense claims in the Chapter 11 Cases against
20 each of the Debtors to the extent of any Diminution in Value (the "***Adequate Protection***
21 ***Superpriority Claims***"). The Adequate Protection Superpriority Claims shall be payable from and
22 have recourse to all prepetition and postpetition property of the Debtors and all proceeds thereof
23 (excluding Avoidance Actions, but including, subject to entry of the Final Order, Avoidance Action
24 Proceeds). Subject to the terms of this Interim Order, the Adequate Protection Superpriority
25 Claims shall have the same relative priorities as the Adequate Protection Liens (as set forth on
26 **Exhibit C** hereto) and be subject to (i) the Carve-Out, (ii) the Administration Charge and (iii) the
27 DIP Superpriority Claims. Except as set forth in this Interim Order, the Adequate Protection
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1 Superpriority Claims shall not be junior to any other claims and shall have priority over all
2 administrative expense claims against each of the Debtors, now existing or hereafter arising, of
3 any kind or nature whatsoever, including, without limitation, administrative expense claims of the
4 kinds specified in or ordered pursuant to Bankruptcy Code sections 105, 326, 328, 330, 331, 365,
5 503(a), 503(b), 506(c) (subject to entry of the Final Order), 507(a), 507(b), 546(d), 726, 1113 and
6 1114.

7 (c) *Fees and Expenses of the Prepetition Secured Parties.* As further adequate
8 protection, the Debtors are authorized and directed to pay, without further Court order, reasonable
9 and documented fees and expenses (the “*Adequate Protection Fees*”), whether incurred before or
10 after the Petition Date, of the Prepetition Senior Secured Term Loan Agent, consisting of the
11 following: (i) Milbank, as counsel to KfW; (ii) one Canadian counsel to KfW; (iii) one Nevada
12 counsel to KfW; and (iv) one technical advisor to KfW; (collectively, the “*Prepetition Secured*
13 *Parties’ Professionals*”) in accordance with the notice and review procedures set forth in
14 paragraph 19 of this Interim Order.

15 (d) *Monthly Payments.* The Prepetition Senior Secured Term Loan Agent shall
16 during the pendency of the Chapter 11 Cases, receive indefeasible payments in amounts equal to
17 100% of the accrued and unpaid interest, whether accruing prior to, on or after the Petition Date,
18 due to the Prepetition Senior Secured Term Loan Agent under the Prepetition Senior Secured Term
19 Loan Documents (calculated at the applicable non-default rates) (the “*Adequate Protection*
20 *Monthly Payments*” and, together with the Adequate Protection Fees, the “*Adequate Protection*
21 *Payments*”), which shall be payable (i) in respect of payments relating to the Prepetition Senior
22 Secured KfW Term Loan Obligations, in cash and (ii) in respect of payments relating to the
23 Prepetition Senior Secured Term Loan A-2 Obligations, in kind; *provided* that in the event of a
24 final determination that the Prepetition Senior Secured Term Loan Lenders are undersecured as of
25 the Petition Date, payments received by the applicable undersecured Prepetition Senior Secured
26 Term Loan Lender pursuant to this paragraph 10(d) may be recharacterized and applied as
27 payments of principal.
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1 (e) *Information Rights.* The Debtors shall contemporaneously provide the
2 Prepetition Secured Parties with all reporting and information that is required to be provided to the
3 DIP Lenders under the DIP Documents (as currently in effect, or pursuant to any additional
4 requirements that may be added after the date hereof). The Debtors shall (a) provide the Prepetition
5 Senior Secured Term Loan Agent and its advisors with copies of any material proposal, offer,
6 indication of interest, or bid within two (2) business days of receipt, and (b) at the Prepetition
7 Senior Secured Term Loan Agent's request, host a weekly call with the Prepetition Senior Secured
8 Term Loan Agent and its advisors regarding the status of the Debtors' sale process. The Debtors
9 shall provide the Prepetition Senior Secured Term Loan Agent and its advisors with any
10 information reasonably requested by the Prepetition Senior Secured Term Loan Agent or its
11 advisors in connection with any Proposed Budget, Approved Budget, or Weekly Variance Report
12 within three (3) business days of such request. The Debtors shall conduct weekly status calls with
13 KfW (and their technical advisor) on the status of the Underground Mine and shall respond timely
14 to any reasonable request of KfW's technical advisor to provide information with respect to the
15 status of the Underground Mine.

16 11. **Perfection of DIP Liens and Adequate Protection Liens.**

17 (a) This Interim Order shall be sufficient and conclusive evidence of the
18 attachment, validity, perfection and priority of all liens and security interests granted under this
19 Interim Order and the DIP Documents, including, without limitation, the DIP Liens and the
20 Adequate Protection Liens, without the necessity of the execution, recordation or filing of any
21 pledge, collateral or security agreements, mortgages, deeds of trust, lockbox or control agreements,
22 financing statements, notations of certificates of title for titled goods, or any other document or
23 instrument, or the taking of any other action (including, without limitation, entering into any
24 deposit account control agreement or other act to take possession or control of any DIP Collateral,
25 including Cash Collateral), to attach, validate, perfect or prioritize such liens and security interests,
26 or to entitle the DIP Agent (acting at the direction of the Required DIP Lenders) and the Prepetition
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1 Secured Parties to the priorities provided hereby and set forth on Exhibit C hereto (a “*Perfection*
2 *Act*”).

3 (b) Without in any way limiting the automatically effective perfection of the
4 liens granted under this Interim Order and the DIP Documents (including, without limitation, the
5 DIP Liens and the Adequate Protection Liens), each of the Required DIP Lenders, the Prepetition
6 Senior Secured Term Loan Agent, the Prepetition Working Capital Purchaser, the Prepetition TF
7 Stream Purchaser and the Prepetition Junior Secured Term Loan Agent, without any further
8 consent of any party, is hereby authorized on a final basis, to execute, file or record, and such
9 parties, as applicable, may require the execution, filing or recording, as each, in its sole discretion
10 deems necessary, of such financing statements, mortgages, notices of lien and other similar
11 documents to enable the Required DIP Lenders, the Prepetition Senior Secured Term Loan Agent,
12 the Prepetition Working Capital Purchaser, the Prepetition TF Stream Purchaser and the Prepetition
13 Junior Secured Term Loan Agent, as applicable, to further validate, perfect, preserve and enforce
14 the DIP Liens or Adequate Protection Liens granted hereunder, as applicable, perfect in accordance
15 with applicable law or to otherwise evidence the DIP Liens and/or the Adequate Protection Liens,
16 as applicable, and all such financing statements, mortgages, notices and other documents shall be
17 deemed to have been executed, filed or recorded as of the Petition Date; *provided, however*, that,
18 notwithstanding any otherwise applicable law or regulation to the contrary, whether or not the
19 Required DIP Lenders, the Prepetition Senior Secured Term Loan Agent, the Prepetition Working
20 Capital Purchaser, the Prepetition TF Stream Purchaser or the Prepetition Junior Secured Term
21 Loan Agent, as applicable, determine, in their sole discretion, to execute, file, record or otherwise
22 effectuate any Perfection Act with respect to any liens or security interests granted under this
23 Interim Order and the DIP Documents, such liens and security interests shall be deemed valid,
24 perfected, allowed, enforceable, non-avoidable and not subject to objection, challenge, dispute,
25 avoidance, recharacterization or subordination. The Debtors are hereby authorized and directed
26 on a final basis to execute and deliver promptly upon demand to the Required DIP Lenders, the
27 Prepetition Senior Secured Term Loan Agent, the Prepetition Working Capital Purchaser, the
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1 Prepetition TF Stream Purchaser and the Prepetition Junior Secured Term Loan Agent, as
2 applicable, all such financing statements, notices and other documents as such parties may
3 reasonably request. The Required DIP Lenders, the Prepetition Senior Secured Term Loan Agent,
4 the Prepetition Working Capital Purchaser, the Prepetition TF Stream Purchaser or the Prepetition
5 Junior Secured Term Loan Agent, as applicable, each in its discretion, may file a copy of this
6 Interim Order as a financing statement with any filing or recording office or with any registry of
7 deeds or similar office, in addition to or in lieu of such financing statements, notices of lien or
8 similar instruments, and in such event, the filing or recording office shall be authorized to file or
9 record such copy of this Interim Order.

10 12. **Modification of Automatic Stay**. The automatic stay imposed by Bankruptcy
11 Code section 362(a) is hereby modified, without application to or further order of this Court, to
12 permit: (i) the Debtors to grant the DIP Liens and the DIP Superpriority Claims, and to perform
13 such acts as the DIP Agent (acting at the direction of the Required DIP Lenders) and/or the
14 Required DIP Lenders may request to assure the perfection and priority of the DIP Liens; (ii) the
15 Debtors to incur all liabilities and obligations to the DIP Secured Parties as contemplated under
16 this Interim Order and the DIP Documents; (iii) the Debtors to grant the Adequate Protection Liens
17 and Adequate Protection Superpriority Claims and to perform such acts as the Prepetition Secured
18 Parties may request to assure the perfection and priority of the Adequate Protection Liens; (iv) the
19 Debtors to incur all liabilities and obligations to the Prepetition Secured Parties, including all
20 Adequate Protection Superpriority Claims and other Adequate Protection Obligations, as
21 contemplated under this Interim Order and the DIP Documents; (v) the Debtors to pay all amounts
22 required under this Interim Order and the DIP Documents; (vi) the DIP Secured Parties and the
23 Prepetition Secured Parties to retain and apply payments made in accordance with the terms of this
24 Interim Order and the DIP Documents; (vii) subject in all respects to paragraph 18 of this Interim
25 Order, the DIP Agent (acting at the direction of the Required DIP Lenders) and the applicable
26 Prepetition Secured Parties to exercise, upon the occurrence of any Termination Event (as defined
27 below), all rights and remedies provided for in this Interim Order, the DIP Documents or applicable
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1 law; (viii) the Debtors to perform under this Interim Order and the DIP Documents and to take any
2 and all other actions that may be necessary, required or desirable for the performance by the
3 Debtors under this Interim Order and the DIP Documents and the implementation of the
4 transactions contemplated hereunder and thereunder; and (ix) the implementation of all of the
5 terms, rights, benefits, privileges, remedies and provisions of this Interim Order and the DIP
6 Documents.

7 13. **Carve-Out.**

8 (a) *Carve-Out.* As used in this Interim Order, the “***Carve-Out***” means the sum
9 of: (i) all fees required to be paid to the Clerk of the Court and to the U.S. Trustee under section
10 1930(a) of title 28 of the United States Code, together with interest, if any, under section 3717 of
11 title 31 of the United States Code (without regard to the notice set forth in (iii) below); (ii) all
12 reasonable fees and expenses up to \$50,000 incurred by a trustee under Bankruptcy Code section
13 726(b) (without regard to the notice set forth in (iii) below); (iii) to the extent allowed, whether by
14 interim order, procedural order or otherwise, all unpaid fees and expenses (the “***Allowed***
15 ***Professional Fees***”) incurred by persons or firms retained by the Debtors pursuant to Bankruptcy
16 Code sections 327, 328 or 363 (the “***Debtor Professionals***”) and the Creditors’ Committee
17 pursuant to Bankruptcy Code sections 328 or 1103 (the “***Committee Professionals***” and, together
18 with the Debtor Professionals, the “***Estate-Retained Professionals***”) at any time before or on the
19 first calendar day following delivery of a Carve-Out Trigger Notice (as defined below), whether
20 allowed by the Court prior to or after delivery of a Carve-Out Trigger Notice; and (iv) Allowed
21 Professional Fees of Estate-Retained Professionals, in an aggregate amount not to exceed \$750,000
22 incurred after the first calendar day following delivery of the Carve-Out Trigger Notice, to the
23 extent allowed, whether by interim order, procedural order or otherwise (the amounts set forth in
24 this clause (iv) being the “***Post-Carve-Out Trigger Notice Cap***”). For purposes of the foregoing,
25 the “***Carve-Out Trigger Notice***” shall mean a written notice delivered by e-mail by the DIP Agent
26 (acting at the direction of the Required DIP Lenders and in accordance with the terms of this
27 Interim Order), to the Debtors’ proposed bankruptcy counsel Allen Overy Shearman & Sterling
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1 US LLP, 599 Lexington Avenue, New York, NY 10022 (Attn: Fredric Sosnick and Sara Coelho),
2 the U.S. Trustee, the Creditors' Committee, if any, and the Prepetition Secured Parties, which
3 notice may be delivered following the occurrence and during the continuation of an Event of
4 Default (as defined in the DIP Credit Agreement) and acceleration of the obligations under the DIP
5 Facility or the occurrence of a Maturity Date (as defined in the DIP Credit Agreement), stating that
6 the Post-Carve-Out Trigger Notice Cap has been invoked.

7 (b) *Carve-Out Reserves*. On the day on which a Carve-Out Trigger Notice is
8 delivered (the "***Carve-Out Trigger Date***"), the Carve-Out Trigger Notice shall constitute a demand
9 to the Debtors to utilize all cash on hand as of such date to fund a reserve in an amount equal to
10 the then unpaid amounts of (i) the Allowed Professional Fees of Estate-Retained Professionals and
11 (ii) the obligations accrued as of the Carve-Out Trigger Date with respect to clauses (i) and (ii) of
12 the definition of Carve-Out set forth in paragraph 13(a) (the "***Additional Carve-Out Obligations***").
13 The Debtors shall deposit and hold such amounts in a segregated account in a manner reasonably
14 acceptable to the DIP Agent (acting at the direction of the Required DIP Lenders) or the Required
15 DIP Lenders, and, following the Discharge of DIP Obligations, the Prepetition Senior Secured
16 Term Loan Agent, in trust to pay such unpaid Allowed Professional Fees of Estate-Retained
17 Professionals and Additional Carve-Out Obligations (the "***Pre-Carve-Out Trigger Notice***
18 ***Reserve***") prior to the use of such reserve to pay any other claims. On the Carve-Out Trigger Date,
19 after funding the Pre-Carve-Out Trigger Notice Reserve, the Debtors shall utilize all remaining
20 cash on hand as of such date to fund a reserve in an amount equal to the Post-Carve-Out Trigger
21 Notice Cap (the "***Post-Carve-Out Trigger Notice Reserve***" and, together with the Pre-Carve-Out
22 Trigger Notice Reserve, the "***Carve-Out Reserves***") prior to the use of such reserve to pay any
23 other claims. All funds in the Pre-Carve-Out Trigger Notice Reserve shall be used first to pay the
24 obligations set forth in clauses (i) through (iii) of the definition of Carve-Out set forth in paragraph
25 13(a) (the "***Pre-Carve-Out Amounts***"), but not, for the avoidance of doubt, the Post-Carve-Out
26 Trigger Notice Cap, until paid in full, and then, to the extent the Pre-Carve-Out Trigger Notice
27 Reserve has not been reduced to zero, subject to the terms of this Interim Order, to pay any other
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1 amounts (if owing) benefitted by the Carve-Out and then to the DIP Agent for the benefit of itself
2 and the DIP Lenders in accordance with the terms of this Interim Order and the DIP Documents,
3 unless the DIP Obligations (other than contingent indemnification obligations as to which no claim
4 has been asserted) have been indefeasibly paid in full, in cash, and all commitments under the DIP
5 Facility have been terminated (the “*Discharge of DIP Obligations*”), in which case any such
6 excess shall be paid to the Prepetition Secured Parties in accordance with the Prepetition Debt
7 Documents and this Interim Order. All funds in the Post-Carve-Out Trigger Notice Reserve shall
8 be used first to pay the obligations set forth in clause (iv) of the definition of Carve-Out set forth
9 above (the “*Post-Carve-Out Amounts*”), and then, to the extent the Post-Carve-Out Trigger Notice
10 Reserve has not been reduced to zero, subject to the terms of this Interim Order, to pay the DIP
11 Agent for the benefit of itself and the DIP Lenders in accordance with the terms of this Interim
12 Order and the DIP Documents, unless the Discharge of DIP Obligations shall have occurred, in
13 which case any such excess shall be paid to the Prepetition Secured Parties in accordance with the
14 Prepetition Debt Documents and this Interim Order. Notwithstanding anything to the contrary in
15 the DIP Documents or this Interim Order, if either of the Carve-Out Reserves are not funded in
16 full in the amounts set forth in this paragraph 13(b), then, any excess funds in one of the Carve-
17 Out Reserves following the payment of the Pre-Carve-Out Amounts and Post-Carve-Out Amounts,
18 respectively, shall be used to fund the other Carve-Out Reserve, up to the applicable amount set
19 forth in this paragraph 13(b), prior to making any payments to the DIP Agent or the Prepetition
20 Secured Parties, as applicable. Notwithstanding anything to the contrary in the DIP Documents or
21 this Interim Order, following delivery of a Carve-Out Trigger Notice, the DIP Agent (in accordance
22 with the terms of this Interim Order and the DIP Documents) shall not sweep or foreclose on cash
23 (including cash received as a result of the sale or other disposition of any assets) of the Debtors
24 until the Carve-Out Reserves have been fully funded, but shall have a valid and perfected security
25 interest in any residual interest in the Carve-Out Reserves, with any excess paid to the DIP Agent
26 for the benefit of itself and the DIP Lenders in accordance with the terms of this Interim Order and
27 the DIP Documents, unless the Discharge of DIP Obligations shall have occurred, in which case
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1 any such excess shall be paid to the Prepetition Secured Parties in accordance with the Prepetition
2 Debt Documents. Further, notwithstanding anything to the contrary in this Interim Order, (x)
3 disbursements by the Debtors from the Carve-Out Reserves shall not increase or reduce the DIP
4 Obligations or constitute additional loans under the DIP Facility and (y) the failure of the Carve-
5 Out Reserves to satisfy in full the Allowed Professional Fees shall not affect the priority of the
6 Carve-Out in respect of DIP Collateral or any recoveries thereon. For the avoidance of doubt and
7 notwithstanding anything to the contrary in this Interim Order, the DIP Documents or in any
8 Prepetition Debt Documents, the Carve-Out shall be senior to all liens and claims securing the DIP
9 Facility, the Adequate Protection Obligations and the Prepetition Secured Obligations, and any and
10 all other forms of adequate protection, liens or claims securing the DIP Obligations or the
11 Prepetition Secured Obligations.

12 (c) *Payment of Allowed Professional Fees Prior to the Carve-Out Trigger Date.*

13 Any payment or reimbursement made prior to the occurrence of the Carve-Out Trigger Date in
14 respect of any Allowed Professional Fees shall not reduce the Carve-Out.

15 (d) *No Direct Obligation to Pay Allowed Professional Fees.* None of the DIP

16 Secured Parties or Prepetition Secured Parties shall be responsible for the payment or
17 reimbursement of any fees or disbursements of any Estate-Retained Professional incurred in
18 connection with the Chapter 11 Cases or any Successor Cases. Nothing in this Interim Order or
19 otherwise shall be construed to obligate the DIP Secured Parties or the Prepetition Secured Parties,
20 in any way, to pay compensation to, or to reimburse expenses of, any Estate-Retained Professional
21 or to guarantee that the Debtors have sufficient funds to pay such compensation or reimbursement.

22 (e) *Payment of Carve-Out on or After the Carve-Out Trigger Date.* Any

23 payment or reimbursement made on or after the occurrence of the Carve-Out Trigger Date in
24 respect of any Allowed Professional Fees incurred after the first business day following delivery
25 by the DIP Agent (acting at the direction of the Required DIP Lenders) of the Carve-Out Trigger
26 Notice shall permanently reduce the Post-Carve-Out Trigger Notice Cap on a dollar-for-dollar
27 basis. Any funding of the Carve-Out under the DIP Facility shall be added to, and made a part of,
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1 the DIP Obligations secured by the DIP Collateral and shall be otherwise entitled to the protections
2 granted under this Interim Order, the DIP Documents, the Bankruptcy Code and applicable law.

3 14. **Limitation on Charging Expenses Against Collateral.** Subject to entry of the
4 Final Order (but retroactive to the Petition Date), and subject to the Carve-Out and the
5 Administration Charge, no costs or expenses of administration of the Chapter 11 Cases, the
6 Recognition Proceedings or any future proceeding that may result therefrom, including liquidation
7 in bankruptcy or other proceedings under the Bankruptcy Code or the CCAA, shall be charged
8 against or recovered from the DIP Collateral or the Prepetition Collateral, the DIP Secured Parties
9 or the Prepetition Secured Parties pursuant to Bankruptcy Code sections 506(c) and 105(a), or any
10 similar principle of law or equity, without the prior written consent of the DIP Secured Parties and
11 the Prepetition Secured Parties, as applicable, and no such consent shall be implied from any other
12 action, inaction or acquiescence by the DIP Secured Parties or the Prepetition Secured Parties.

13 15. **No Marshaling/Application of Proceeds.** Subject to entry of the Final Order, the
14 DIP Agent and the Prepetition Secured Parties shall be entitled to apply the payments or proceeds
15 of the DIP Collateral and the Prepetition Collateral, as applicable, in accordance with the
16 provisions of the Interim Order or the Final Order, as applicable, the DIP Documents and the
17 Prepetition Debt Documents, as applicable, and in no event shall the DIP Secured Parties or any
18 of the Prepetition Secured Parties be subject to the equitable doctrine of “marshaling” or any other
19 similar doctrine with respect to any of the DIP Collateral or Prepetition Collateral.

20 16. **Equities of the Case.** Subject to entry of the Final Order (but retroactive to the
21 Petition Date), (i) the Prepetition Secured Parties shall be entitled to all of the rights and benefits
22 of Bankruptcy Code section 552(b) and (ii) the Debtors shall not invoke the “equities of the case”
23 exception under Bankruptcy Code section 552(b) with respect to the proceeds, products, offspring
24 or profits of any of the Prepetition Collateral.

25 17. **Termination Events.** The occurrence of any of the following shall constitute a
26 “*Termination Event*”: (i) the occurrence of an Event of Default (as defined in the DIP Documents)
27 to the extent not waived by the Required DIP Lenders or subject to a forbearance or similar
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1 agreement with the Required DIP Lenders; (ii) the Debtors' failure to comply in any material
2 respect with any provision of this Interim Order unless waived by the applicable lenders; or (iii)
3 the occurrence of the Maturity Date (as defined in the DIP Documents).

4 18. **Remedies Upon a Termination Event.**

5 (a) Upon the occurrence of the Termination Event, the DIP Agent (acting at the
6 direction of the Required DIP Lenders) shall be entitled to declare (A) all DIP Obligations due and
7 payable without presentment, demand or protest or other notice of any kind, all of which are
8 expressly waived by the Debtors, (B) the termination, reduction or restriction of all future
9 commitments to the Borrower under the DIP Facility to the extent any such commitment remains
10 (including, for the avoidance of doubt, any commitment to fund the DIP Facility) but without
11 affecting the DIP Liens and DIP Obligations, (C) the termination of the DIP Facility and any DIP
12 Documents as to any future obligation of the DIP Secured Parties, but without affecting any of the
13 DIP Liens or any DIP Obligation, (D) the termination, reduction or restriction on the ability of the
14 Debtors to use any Cash Collateral and the proceeds of the DIP Facility (any such declaration made
15 by the DIP Agent to counsel to the Debtors, counsel to the applicable Prepetition Secured Parties,
16 the U.S. Trustee and counsel to the Creditors' Committee, if any, (which may be made by e-mail),
17 a "***Termination Declaration***," and the date which is the earliest to occur of any such Termination
18 Declaration and the Maturity Date being herein referred to as the "***Termination Declaration***
19 ***Date***"). The DIP Agent shall provide any Termination Declaration to the Debtors' lead
20 restructuring counsel, the Creditors' Committee, if any, the U.S. Trustee, and Milbank, as counsel
21 to KfW.

22 (b) The Debtors, the Committee (if appointed), and/or any party in interest shall
23 be entitled to seek an emergency hearing before the Court within four (4) business days after the
24 delivery of a Termination Declaration (such period being the "***Remedies Notice Period***"), for the
25 sole purpose of contesting whether a Termination Event (other than with respect to the Maturity
26 Date) has occurred or is continuing or for the contested use of Cash Collateral (a "***Stay***
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1 **Enforcement Motion**”).⁶ The Debtors shall be entitled to continue to use Cash Collateral in
2 accordance with the terms of this Interim Order and the DIP Documents during any Remedies
3 Notice Period only to make payroll and fund critical expenses necessary to preserve the Prepetition
4 Collateral, in each case, in accordance with the terms of the Approved Budget and this Interim
5 Order, but shall not be permitted to use Cash Collateral following any Remedies Notice Period
6 absent further order of the Court approving such use (and only to the extent so approved). Unless
7 the Court has determined that a Termination Event has not occurred and/or is not continuing, or
8 the Court orders otherwise, the automatic stay, as to the DIP Secured Parties shall automatically
9 be terminated at the end of the Remedies Notice Period without further notice, order, or any further
10 action in the Chapter 11 Cases or the Recognition Proceedings and the DIP Agent (acting at the
11 direction of the Required DIP Lenders) shall be permitted to exercise any rights and remedies
12 against the DIP Collateral available to the DIP Secured Parties under this Interim Order, the DIP
13 Documents and applicable non-bankruptcy law without any further order of or application or
14 motion to the Court, including, but not limited to, any rights to setoff against deposits and financial
15 assets of the Debtors and to foreclose on all or any portion of the DIP Collateral, in each case,
16 subject to the Carve-Out, the Administration Charge and any Prepetition Permitted Liens;
17 *provided, however*, that the Required DIP Lenders shall consult with the Prepetition Secured Term
18 Loan Agent in advance of exercising any remedies or taking action in connection with any of the
19 DIP Collateral and shall provide the Prepetition Senior Secured Term Loan Agent with five (5)
20 Business Days’ notice in advance of taking such actions; which period may be waived by the
21 Prepetition Senior Secured Term Loan Agent, in its reasonable discretion.

22 19. **Fees and Expenses of DIP Professionals and Prepetition Secured Parties’**

23 **Professionals.**

24 (a) The payment of all DIP Professional Fees and Adequate Protection Fees

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26 ⁶ If a hearing to consider a Stay Enforcement Motion is requested to be heard before the end of the Remedies Notice
27 Period but is scheduled for a later date by the Court, the Remedies Notice Period shall automatically be extended
28 to the date of such hearing, but in no event later than ten (10) business days after delivery of the Termination
Declaration or at such other date that may be agreed to by the parties after good faith negotiations.

1 hereunder shall not be subject to (i) further application to or approval of the Court, (ii) allowance
2 or review by the Court or (iii) the U.S. Trustee's fee guidelines, and no attorney or advisor to the
3 DIP Secured Parties or the Prepetition Secured Parties shall be required to file an application
4 seeking compensation for services or reimbursement of expenses with the Court; *provided,*
5 *however,* that any time the DIP Professionals (other than DIP Agent Counsel) seek payment of
6 fees and expenses from the Debtors from and after the Petition Date but prior to the effective date
7 of any chapter 11 plan,⁷ each such party or professional shall provide summary copies of its
8 invoices (which shall not be required to contain time entries, and which may be redacted or
9 modified to the extent necessary to delete any information subject to the attorney-client privilege,
10 any information constituting attorney work product or any other confidential information, and the
11 provision of their invoices shall not constitute any waiver of the attorney-client privilege or of any
12 benefits of the attorney work product doctrine) to the Debtors' counsel, the U.S. Trustee, and lead
13 counsel to the Creditors' Committee, if any (collectively, the "***Invoice Review Parties***"). Any
14 objections raised by any Invoice Review Party with respect to such invoices must (x) be in writing
15 (email from such party or their counsel being sufficient) (y) state with particularity the grounds for
16 such objection and (z) be submitted to the affected professional(s) within ten (10) calendar days
17 after delivery of such invoices to the Invoice Review Parties (such ten (10) calendar day period,
18 the "***Invoice Review Period***"). If no written objection is received prior to the expiration of the
19 Invoice Review Period from the Invoice Review Parties, the Debtors shall pay such invoices within
20 two (2) calendar days following the expiration of the Invoice Review Period. If an objection is
21 received within the Invoice Review Period from the Invoice Review Parties, the Debtors shall
22 promptly pay the undisputed amount of the invoice, and the disputed portion of such invoice shall
23 not be paid until such dispute is resolved by agreement between the affected party or
24 professional(s) and the objecting party or by order of this Court. Any hearing to consider such an
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26 ⁷ For the avoidance of doubt, nothing contained in this paragraph 19 shall prevent the DIP Secured Parties or KfW
27 from seeking payment from the Debtors of professional fees and expenses incurred prior to the Petition Date in
28 accordance with the terms of this Interim Order and the DIP Documents.

1 objection to the payment of any fees, costs or expenses set forth in a professional fee invoice
2 hereunder shall be limited to the reasonableness of the fees, costs and expenses that are the subject
3 of such objection.

4 (b) Notwithstanding anything contained in this Interim Order to the contrary,
5 any and all payments, fees, costs, expenses and other amounts paid at any time by any of the
6 Debtors to the DIP Secured Parties or the Prepetition Secured Parties (including such parties'
7 respective professionals), as applicable, pursuant to the requirements of this Interim Order or the
8 DIP Documents, whether prior to, on or after the Petition Date, shall be non-refundable and
9 irrevocable, are hereby approved (and to the extent paid prior to entry of the Interim Order, ratified
10 in full), and shall not be subject to any challenge, objection, defense, claim or cause of action of
11 any kind or nature whatsoever, including, without limitation, avoidance (whether under Chapter 5
12 of the Bankruptcy Code or under applicable law (including any applicable state law Uniform
13 Fraudulent Transfer Act, Uniform Fraudulent Conveyance Act or similar statute or common law)),
14 reduction, setoff, offset, recoupment, recharacterization, subordination (whether equitable,
15 contractual, or otherwise), reclassification, disgorgement, disallowance, impairment, marshaling,
16 surcharge or recovery or any other cause of action, whether arising under the Bankruptcy Code,
17 applicable non-bankruptcy law or otherwise, by any person or entity.

18 20. **Limitation on Use of DIP Facility Proceeds, DIP Collateral and Cash**
19 **Collateral.**

20 (a) Notwithstanding anything to the contrary set forth in this Interim Order,
21 none of the DIP Facility, the DIP Collateral, the Prepetition Collateral or the proceeds thereof,
22 including Cash Collateral, or the Carve-Out may be used: (i) to investigate (except as expressly
23 provided herein), initiate, prosecute, join or finance the initiation or prosecution of any claim,
24 counterclaim, action, suit, arbitration, proceeding, application, motion, objection, defense or other
25 litigation of any type (A) against any of the DIP Secured Parties or the Prepetition Secured Parties
26 (in each case, in their capacities as such) and each of their respective affiliates, officers, directors,
27 employees, agents, representatives, attorneys, consultants, financial advisors, affiliates, assigns, or
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1 successors, with respect to any transaction, occurrence, omission, action, or other matter (including
2 formal discovery proceedings in anticipation thereof), including, without limitation, any so-called
3 “lender liability” claims and causes of action, or seeking relief that would impair the rights and
4 remedies of the DIP Secured Parties or the Prepetition Secured Parties (in each case, in their
5 capacities as such) under this Interim Order, the DIP Documents or the Prepetition Debt
6 Documents, as applicable, to the extent permitted or provided hereunder, including, without
7 limitation, for the payment of any services rendered by any Estate-Retained Professional in
8 connection with the assertion of or joinder in any claim, counterclaim, action, proceeding,
9 application, motion, objection, defense or other contested matter, the purpose of which is to seek,
10 or the result of which would be to obtain, any order, judgment, determination, declaration or similar
11 relief that would impair the ability of any of the DIP Secured Parties or the Prepetition Secured
12 Parties to recover on the DIP Collateral or the Prepetition Collateral (as applicable), as provided
13 for herein, or seeking affirmative relief against any of the DIP Secured Parties or the Prepetition
14 Secured Parties related to the DIP Obligations or the Prepetition Secured Obligations, as
15 applicable, (B) seeking to invalidate, set aside, avoid or subordinate, in whole or in part, the DIP
16 Liens, DIP Superpriority Claims, the DIP Obligations, the Prepetition Funded Debt Liens or the
17 Prepetition Secured Obligations or (C) for monetary, injunctive or other affirmative relief against
18 the DIP Secured Parties or the Prepetition Secured Parties (in each case, in their capacities as such)
19 that would impair the ability of any of the DIP Secured Parties or the Prepetition Secured Parties
20 to assert or enforce any lien, claim, right or security interest or to realize or recover on the DIP
21 Obligations or the Prepetition Secured Obligations to the extent permitted or provided hereunder;
22 (ii) for objecting to or challenging in any way the legality, validity, priority, perfection or
23 enforceability of the claims, liens or interests (including the Prepetition Liens) held by or on behalf
24 of each of the Prepetition Secured Parties related to the Prepetition Secured Obligations, or by or
25 on behalf of the DIP Secured Parties related to the DIP Obligations; (iii) for asserting, commencing
26 or prosecuting any claims or causes of action whatsoever, including, without limitation, any
27 Avoidance Actions related to the DIP Liens, the DIP Superpriority Claims, the DIP Obligations,
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1 the Prepetition Liens or the Prepetition Secured Obligations; or (iv) for prosecuting an objection
2 to, contesting in any manner or raising any defenses to, the validity, extent, amount, perfection,
3 priority or enforceability of (A) any of the DIP Liens, the DIP Superpriority Claims, or any other
4 rights or interests of the DIP Secured Parties related to the DIP Obligations or the DIP Liens or (B)
5 any of the Prepetition Liens, Prepetition Secured Obligations or any other rights or interests of any
6 of the Prepetition Secured Parties related to the Prepetition Secured Obligations; *provided* that no
7 more than \$50,000 of the proceeds of the DIP Facility, the DIP Collateral, or the Prepetition
8 Collateral, including the Cash Collateral, in the aggregate, may be used by the Creditors'
9 Committee (if any) solely to investigate (but not seek formal discovery or commence any
10 challenge, objection or prosecute any claim or cause of action relating to) the foregoing matters
11 with respect to the Prepetition Liens or the Prepetition Secured Obligations within the Challenge
12 Period (as defined below) (the "***Investigation Budget***").

13 (b) Any fees and expenses of the Committee Professionals in connection with
14 the investigation of the matters described in paragraph 20(a) of this Interim Order in excess of the
15 Investigation Budget shall not be entitled to administrative expense priority pursuant to section
16 503(b) of the Bankruptcy Code or otherwise.

17 21. **Effect of Stipulations on Third Parties.**

18 (a) The Debtors' acknowledgments, stipulations, admissions, agreements,
19 waivers and releases set forth in this Interim Order shall be binding on the Debtors, their respective
20 estates, representatives, successors and assigns upon entry of this Interim Order and the Debtors
21 shall be deemed to have irrevocably waived and relinquished all Challenges (as defined below) as
22 of the Petition Date.

23 (b) The acknowledgments, stipulations, admissions, agreements, waivers and
24 releases contained in this Interim Order shall also be binding upon all other parties in interest,
25 including the Creditors' Committee or non-statutory committees appointed or formed in these
26 Chapter 11 Cases (if any) and any other person or entity seeking to act on behalf of the Debtors'
27 estates, including any chapter 7, chapter 11 trustee or examiner appointed or elected for any of the
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1 Debtors in these Chapter 11 Cases or any Successor Cases, and each of their respective successors
2 and assigns, in all circumstances and for all purposes, unless: (i) any such party, having obtained
3 requisite standing, timely and properly commences and serves an adversary proceeding or
4 contested matter (subject to the limitations contained herein) (A) objecting to or challenging the
5 validity, perfection, priority, scope, extent or enforceability of the Prepetition Funded Debt Liens
6 or the Prepetition Secured Obligations, (B) objecting to or alleging any basis to impair, restrict,
7 deny or otherwise challenge the right of any of the Prepetition Secured Parties to credit bid, in
8 whole or in part, the Prepetition Funded Debt Liens or the Prepetition Secured Obligations under
9 Bankruptcy Code section 363(k) or otherwise or (C) otherwise asserting or prosecuting any
10 Avoidance Actions or any other claims, counterclaims or causes of action, objections, contests or
11 defenses (collectively, the “**Challenges**”) against the Prepetition Secured Parties in connection
12 with any matter related to the Prepetition Collateral, the Prepetition Funded Debt Liens or the
13 Prepetition Secured Obligations by no later than (1) with respect to any Creditors’ Committee, the
14 date that is 45 days after the later of (a) its appointment in the Chapter 11 Cases and (b) entry of
15 the Final Order and (2) with respect to all other parties in interest, no later than the date that is 45
16 days after the entry of this Interim Order (the time period established by the foregoing clauses (1)
17 and (2) the “**Challenge Period**”); *provided* that in the event that, prior to the expiration of the
18 Challenge Period, (x) these Chapter 11 Cases are converted to chapter 7 or (y) a chapter 11 trustee
19 is appointed in these Chapter 11 Cases, then, in each such case, the Challenge Period shall be
20 extended for a period of 10 days solely with respect to any Trustee, commencing on the occurrence
21 of either of the events described in the foregoing clauses (x) and (y); and (ii) an order is entered
22 by a court of competent jurisdiction and becomes final and non-appealable in favor of the plaintiff
23 sustaining any such challenge in any such duly filed adversary proceeding or contested matter.

24 (c) If no such adversary proceeding or contested matter is timely filed prior to
25 the expiration of the Challenge Period, without further order of this Court: (i) the Prepetition
26 Secured Obligations shall constitute allowed claims, not subject to any Claims and Defenses
27 (whether characterized as a counterclaim, setoff, subordination, recharacterization, defense,
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1 avoidance, contest, attack, objection, recoupment, reclassification, reduction, disallowance,
2 recovery, disgorgement, attachment, “claim” (as defined by Bankruptcy Code section 101(5)),
3 impairment, subordination (whether equitable, contractual or otherwise) or other challenge of any
4 kind pursuant to the Bankruptcy Code or applicable non-bankruptcy law), for all purposes in these
5 Chapter 11 Cases and any Successor Cases, if any; (ii) the Prepetition Funded Debt Liens shall be
6 deemed to have been, as of the Petition Date, legal, valid, binding, perfected and of the priority
7 specified in paragraphs F.1(c), F.2(c), F.3(c), and F.4(c), not subject to setoff, subordination,
8 defense, avoidance, impairment, disallowance, recharacterization, reduction, recoupment or
9 recovery; and (iii) the Prepetition Secured Obligations, the Prepetition Funded Debt Liens on the
10 Prepetition Collateral and the Prepetition Secured Parties (solely in their capacities as such) shall
11 not be subject to any other or further challenge and all parties in interest shall be forever enjoined
12 and barred from seeking to exercise the rights of the Debtors’ estates or taking any such action,
13 including any successor thereto (including any estate representative or a Trustee, whether such
14 Trustee is appointed or elected prior to or following the expiration of the Challenge Period).

15 (d) If any such adversary proceeding or contested matter is timely filed prior to
16 the expiration of the Challenge Period, (i) the stipulations, admissions, agreements, waivers and
17 releases contained in this Interim Order shall nonetheless remain binding and preclusive on the
18 Creditors’ Committee (if any) and any other party in these Chapter 11 Cases, including any Trustee,
19 except as to the party (or parties) that timely initiated such adversary proceeding or contested
20 matter and, with respect to such party (or parties), solely as to any stipulations, admissions,
21 agreements, waivers and releases that are specifically and expressly challenged in such adversary
22 proceeding or contested matter and (ii) any Claims and Defenses not brought in such adversary
23 proceeding or contested matter shall be forever barred; *provided* that, if and to the extent any
24 challenges to a particular stipulation, admission, agreement, waiver or release are withdrawn,
25 denied or overruled by a final non-appealable order, such stipulation, admission, agreement,
26 waiver and/or release also shall be binding on the Debtors’ estates and all parties in interest.

27 (e) Nothing in this Interim Order vests or confers on any person (as defined in
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1 the Bankruptcy Code), including any Creditors' Committee (if any), standing or authority to pursue
2 any cause of action belonging to the Debtors or their estates, including, without limitation, any
3 challenge with respect to the Prepetition Debt Documents, the Prepetition Funded Debt Liens or
4 the Prepetition Secured Obligations.

5 22. **Release.** Subject to the rights and limitations set forth in paragraphs 20 and 21 of
6 this Interim Order, each of the Debtors and the Debtors' estates, on its own behalf and on behalf
7 of each of their predecessors, their successors and assigns shall, to the maximum extent permitted
8 by applicable law, unconditionally, irrevocably and fully forever release, remise, acquit, relinquish,
9 irrevocably waive and discharge each of the DIP Secured Parties, and subject to the entry of the
10 Final Order, the Prepetition Secured Parties (in each case, in their capacities as such) and each of
11 their respective former, current or future officers, employees, directors, agents, representatives,
12 owners, members, partners, affiliated investment funds or investment vehicles, managed, advised
13 or sub-advised accounts, funds or other entities, investment advisors, sub-advisors or managers,
14 financial advisors, legal advisors, shareholders, managers, consultants, accountants, attorneys,
15 affiliates and predecessors in interest, each in their capacity as such, of and from any and all claims,
16 demands, liabilities, responsibilities, disputes, remedies, causes of action, indebtedness and
17 obligations, rights, assertions, allegations, actions, suits, controversies, proceedings, losses,
18 damages, injuries, attorneys' fees, costs, expenses or judgments of every type, whether known,
19 unknown, asserted, unasserted, suspected unsuspected, accrued, unaccrued, fixed, contingent,
20 pending or threatened including, without limitation, all legal and equitable theories of recovery,
21 arising under common law, statute or regulation or by contract, of every nature and description
22 that exist on the date hereof solely with respect to or relating to the DIP Liens, the DIP
23 Superpriority Claims, the DIP Obligations, the Prepetition Funded Debt Liens and the Prepetition
24 Secured Obligations, as applicable, including, without limitation, (i) any so-called "lender
25 liability" or equitable subordination claims or defenses, (ii) any and all claims and causes of action
26 arising under the Bankruptcy Code and (iii) any and all claims and causes of action regarding the
27 validity, priority, extent, enforceability, perfection or avoidability of the liens or claims of the DIP
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1 Secured Parties and the Prepetition Secured Parties.

2 23. **Credit Bidding.**

3 (a) Consistent with Bankruptcy Code section 363(k) and applicable law, the
4 DIP Agent (acting at the direction of the Required DIP Lenders) and each DIP Lender (in any case,
5 either directly or through one or more acquisition vehicles), shall have the right to credit bid for
6 all or any portion of the DIP Collateral, as applicable, up to the full amount of any DIP
7 Superpriority Claims, as part of any sale of Debtors' assets (in whole or in part), including without
8 limitation, sales occurring pursuant to (i) Bankruptcy Code section 363, (ii) a plan of
9 reorganization or a plan of liquidation under Bankruptcy Code section 1129 or (iii) a sale or
10 disposition by a chapter 7 trustee for any Debtor under Bankruptcy Code section 725 (each, a "***Sale***
11 ***Transaction***"), *provided*, that, until payment in full of the obligations under the Prepetition
12 Working Capital Facility, the rights of the DIP Agent and each DIP Lender to credit bid on any
13 DIP Collateral that constitutes WCF Collateral shall be subject to the right of the Prepetition
14 Working Capital Purchaser to credit bid for all or any portion of the WCF Collateral, as applicable,
15 up to the full amount of any Prepetition Working Capital Obligations as part of any Sale
16 Transaction. The DIP Agent shall have the absolute right to assign, sell or otherwise dispose of its
17 right to credit bid in connection with any credit bid by or on behalf of the DIP Lenders to any
18 acquisition entity or joint venture formed in connection with such bid.

19 (b) The Prepetition Secured Parties' rights to credit bid for all or a portion of
20 the Prepetition Collateral as part of any Sale Transaction are fully preserved, subject in all respects
21 to (i) payment in full in cash of all DIP Obligations and (ii) the terms and conditions of this Interim
22 Order and the applicable Prepetition Debt Documents, including the lien and claim priorities set
23 forth herein and therein.

24 24. **Interim Order Governs.** In the event of any inconsistency between the provisions
25 of this Interim Order and any DIP Documents, the provisions of this Interim Order shall govern.

26 25. **Binding Effect; Successors and Assigns.** The DIP Documents and the provisions
27 of this Interim Order, including all findings herein, shall be binding upon all parties in interest in
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1 these Chapter 11 Cases, including, without limitation, the DIP Secured Parties, the Prepetition
2 Secured Parties, the Creditors' Committee (if any), the Debtors and their respective successors and
3 assigns (including any chapter 7 or chapter 11 trustee hereinafter appointed or elected for the estate
4 of any of the Debtors, an examiner appointed pursuant to Bankruptcy Code section 1104 or any
5 other fiduciary appointed as a legal representative of any of the Debtors or with respect to the
6 property of the estate of any of the Debtors) and shall inure to the benefit of the DIP Secured
7 Parties and the Prepetition Secured Parties; *provided*, that, except to the extent expressly set forth
8 in this Interim Order, the Prepetition Secured Parties shall have no obligation to permit the use of
9 Cash Collateral or to extend any financing to any chapter 7 trustee or similar responsible person
10 appointed for the estates of the Debtors.

11 26. **Limitation of Liability.** In determining to make any loan under the DIP
12 Documents, permitting the use of Cash Collateral or exercising any rights or remedies as and when
13 permitted pursuant to this Interim Order, the DIP Documents or the Prepetition Debt Documents,
14 the DIP Secured Parties and the Prepetition Secured Parties (in each case, solely in their capacities
15 as such) shall not be deemed to be in control of the operations of the Debtors or to be acting as a
16 "responsible person" or "owner or operator" with respect to the operation or management of the
17 Debtors or their respective business (as such terms, or any similar terms, are used in the United
18 States Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§
19 9601 *et seq.* as amended, or any similar federal or state statute), nor shall they owe any fiduciary
20 duty to any of the Debtors, their creditors or estates, or constitute or be deemed to constitute a joint
21 venture or partnership with any of the Debtors. Furthermore, nothing in this Interim Order, the
22 DIP Documents or the Prepetition Debt Documents shall in any way be construed or interpreted
23 to impose or allow the imposition upon the DIP Secured Parties or the Prepetition Secured Parties
24 of any liability for any claims arising from the prepetition or postpetition activities of any of the
25 Debtors and their direct or indirect subsidiaries.

26 27. **Proofs of Claim.** Notwithstanding anything to the contrary contained in any prior
27 or subsequent order of the Court, including, without limitation, any order establishing a deadline
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1 for the filing of proofs of claim or requests for payment of administrative expenses under
2 Bankruptcy Code section 503(b), (i) the Prepetition Secured Parties shall not be required to file
3 any proof of claim or request for payment of administrative expenses with respect to any of the
4 Prepetition Secured Obligations or the Adequate Protection Obligations and (ii) the DIP Secured
5 Parties shall not be required to file any proof of claim or request for payment of administrative
6 expenses with respect to any DIP Obligations. The failure to file any such proof of claim or request
7 for payment of administrative expenses shall not affect the validity, priority or enforceability of
8 any of the Prepetition Debt Documents, the DIP Documents or of any other indebtedness, liabilities
9 or obligations arising at any time thereunder or under this Interim Order, or prejudice or otherwise
10 adversely affect the Prepetition Secured Parties' or the DIP Secured Parties' rights, remedies,
11 powers or privileges under any of the Prepetition Debt Documents, the DIP Documents, this
12 Interim Order or applicable law. The applicable Prepetition Secured Parties and DIP Secured
13 Parties may (but are not required to) in their discretion file (and amend and/or supplement)
14 applicable proofs of claim and/or aggregate proofs of claim in each of the Chapter 11 Cases or any
15 successor cases for any claim allowed herein, and any such proof of claim may (but is not required
16 to) be filed in the Debtors' lead Chapter 11 Case *In re* [___], Case No. [___] ([___]) as one
17 consolidated proof of claim against all of the Debtors, rather than as separate proofs of claim
18 against each Debtor. The provisions set forth in this paragraph 27 are intended solely for the
19 purpose of administrative convenience and shall not affect the substantive rights of any party-in-
20 interest or their respective successors-in-interest.

21 28. **Insurance.** The Debtors shall continue to maintain all property, operational and
22 other insurance as required and as specified in the DIP Documents (which shall be deemed satisfied
23 if such insurance as required under the Prepetition Secured Term Loan Credit Agreement remains
24 in place). The Debtors shall provide the DIP Agent (for distribution to the DIP Lenders) with
25 commercially reasonable evidence of such insurance upon a request to counsel for the Debtors
26 from the DIP Agent (acting at the direction of the Required DIP Lenders). Upon entry of this
27 Interim Order and to the fullest extent provided by applicable law, the DIP Agent (on behalf of
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1 itself and the DIP Lenders) is, and is deemed to be, without any further action or notice, named as
2 additional insured and loss payee on each insurance policy maintained by the Debtors that in any
3 way relates to the DIP Collateral (including all property damage and business interruption
4 insurance policies of the Debtors, whether expired, currently in place or to be put in place in the
5 future), and shall act in that capacity and distribute any proceeds recovered or received in respect
6 of any such insurance policies.

7 29. **Protection of Lenders' Rights.**

8 (a) Except as expressly permitted in this Interim Order or the DIP Documents,
9 in the event any person or entity that holds a lien on or security interest in DIP Collateral that is
10 junior or otherwise subordinate to the DIP Liens receives any DIP Collateral or proceeds of DIP
11 Collateral, in each case, that is subject to such junior lien, or receives any payment on account of
12 such junior lien or security interest in the DIP Collateral on account of such junior lien (whether
13 in connection with the exercise of any right or remedy (including setoff), any payment or
14 distribution from the Debtors, mistake or otherwise) prior to the Payment in Full⁸ of all DIP
15 Obligations, such person or entity shall be deemed to have received, and shall hold, any such
16 payment or proceeds of DIP Collateral in trust for the benefit of the DIP Secured Parties, and shall
17 immediately turn over all such proceeds to the DIP Agent, for the benefit of itself and the DIP
18 Lenders, in the same form as received, with any necessary endorsements, for application in
19 accordance with this Interim Order and the DIP Documents; *provided, however*, that until the
20 Payment in Full of the Prepetition Working Capital Obligations, upon receipt by the DIP Agent or
21 any DIP Lender of any such payment or proceeds from DIP Collateral that constitutes WCF
22 Collateral, the DIP Agent or the applicable DIP Lender shall segregate and hold in trust such
23 payment or proceeds for the benefit of, and turn over all such payments and proceeds to, the

24 _____
25 8 For purposes hereof, the term "Paid in Full" or "Payment in Full" means, with respect to the DIP Obligations or
26 any Prepetition Secured Obligations (as the case may be), the irrevocable and indefeasible payment in full in cash
27 of all DIP Obligations or such Prepetition Secured Obligations (as the case may be), other than contingent
28 indemnification and expense reimbursement obligations for which no claim or demand has been asserted, and all
commitments thereunder shall have irrevocably, permanently and finally expired or shall have been terminated,
cancelled and discharged.

1 Prepetition Working Capital Purchaser in the same form as received, with any necessary
2 endorsements, for application in accordance with this Interim Order, the DIP Documents and the
3 Prepetition Debt Documents.

4 (b) Other than with respect to the Carve Out, the Administration Charge and
5 Petition Date Perfected Liens, and as otherwise expressly provided in this Interim Order and/or
6 the DIP Documents (including Exhibit C hereto), no claim or lien having a priority senior to or
7 *pari passu* with those granted to any of the DIP Secured Parties or the Prepetition Secured Parties
8 by this Interim Order shall be granted or permitted while any of the DIP Obligations or the
9 Prepetition Secured Obligations, respectively, remains outstanding. Except as expressly provided
10 in this Interim Order and the DIP Documents (including Exhibit C hereto), each of the DIP Liens,
11 the DIP Superpriority Claims, the Adequate Protection Liens, the Adequate Protection
12 Superpriority Claims, the Prepetition Funded Debt Liens or the Prepetition Secured Obligations:
13 (i) shall not be made junior or subordinated to or *pari passu* with (A) any lien, security interest or
14 claim heretofore or hereinafter granted in any of the Chapter 11 Cases or any Successor Cases,
15 whether under Bankruptcy Code section 364(d) or otherwise, (B) any lien that is avoided and
16 preserved for the benefit of the Debtors and their estates under Bankruptcy Code section 551 or
17 otherwise, (C) any lien arising after the Petition Date including, without limitation, any lien or
18 security interests granted in favor of any federal, state, municipal or other domestic or foreign
19 governmental unit (including any regulatory body), commission, board or court for any liability of
20 the Debtors or (D) any intercompany or affiliate lien or claim; and (ii) shall not be subject to
21 Bankruptcy Code sections 510, 549, 550 or 551 and, subject to entry of the Final Order,
22 Bankruptcy Code section 506(c).

23 (c) In the event this Interim Order or any provision hereof is vacated, reversed
24 or modified on appeal or otherwise, any liens or claims granted to the DIP Secured Parties or
25 Prepetition Secured Parties hereunder arising prior to the effective date of any such vacatur,
26 reversal or modification of this Interim Order shall be governed in all respects by the original
27 provisions of this Interim Order, including entitlement to all rights, remedies, privileges and
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1 benefits granted herein, and the DIP Secured Parties and the Prepetition Secured Parties shall be
2 entitled to the protections afforded in Bankruptcy Code sections 363(m) and 364(e), as applicable,
3 with respect to all uses of the DIP Collateral (including all Cash Collateral and all Prepetition
4 Collateral), all DIP Obligations and all Adequate Protection Obligations.

5 (d) Subject to the Carve-Out, the Administration Charge and Petition Date
6 Perfected Liens, unless and until all DIP Obligations and Prepetition Secured Obligations are Paid
7 in Full and all commitments to extend credit under the DIP Facility are terminated, the Debtors
8 irrevocably waive the right to seek and shall not seek or consent to, directly or indirectly: (i) except
9 as permitted under the DIP Documents, and with the prior written consent of the Required DIP
10 Lenders and the Prepetition Senior Secured Term Loan Agent, (A) any modification, stay, vacatur
11 or amendment of this Interim Order, (B) a priority claim for any administrative expense, secured
12 claim or unsecured claim against any of the Debtors (now existing or hereafter arising of any kind
13 or nature whatsoever, without limitation, any administrative expense of the kind specified in
14 Bankruptcy Code sections 503(b), 507(a) or 507(b)) in any of the Chapter 11 Cases, equal or
15 superior to the DIP Superpriority Claims and the Adequate Protection Superpriority Claims or (C)
16 any other order allowing the use of DIP Collateral; (ii) except as permitted under the DIP
17 Documents, any lien on any of the DIP Collateral (including all Prepetition Collateral) with priority
18 equal or superior to the DIP Liens, the Adequate Protection Liens or the Prepetition Funded Debt
19 Liens; (iii) the use of Cash Collateral for any purpose other than as permitted in the DIP Documents
20 and this Interim Order; (iv) except as set forth in the DIP Documents, the return of goods pursuant
21 to Bankruptcy Code section 546(h) (or other return of goods on account of any prepetition
22 indebtedness) to any creditor of any Debtor; (v) an order converting or dismissing any of the
23 Chapter 11 Cases without the consent of the Required DIP Lenders; (vi) an order appointing a
24 chapter 11 trustee in any of the Chapter 11 Cases; or (vii) an order appointing an examiner with
25 enlarged powers in any of the Chapter 11 Cases.

26 (e) Notwithstanding any order dismissing any of the Chapter 11 Cases under
27 Bankruptcy Code section 1112 or otherwise entered at any time, (i) the DIP Liens, the DIP
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1 Superpriority Claims, the Adequate Protection Liens, the Adequate Protection Superpriority
2 Claims and any other administrative claims granted pursuant to this Interim Order, shall continue
3 in full force and effect and shall maintain their priorities as provided in this Interim Order and the
4 DIP Documents until such time as all DIP Obligations and Adequate Protection Obligations are
5 Paid in Full; and (ii) the Court shall retain jurisdiction, notwithstanding such dismissal, for the
6 purposes of enforcing the claims, liens and security interests referred to in clause (i) above.

7 (f) Except as expressly provided in this Interim Order and the DIP Documents,
8 the DIP Liens, the DIP Superpriority Claims, the Adequate Protection Liens, the Adequate
9 Protection Superpriority Claims and all other rights and remedies of the DIP Secured Parties and
10 the Prepetition Secured Parties granted by the provisions of this Interim Order and the DIP
11 Documents shall survive, shall maintain their priority as provided in this Interim Order, and shall
12 not be modified, impaired or discharged by (i) the entry of an order converting any of the Chapter
13 11 Cases to a case under chapter 7, dismissing any of the Chapter 11 Cases, terminating the joint
14 administration of these Chapter 11 Cases or by any other act or omission, or (ii) the entry of an
15 order approving the sale of any DIP Collateral (including any Prepetition Collateral) pursuant to
16 Bankruptcy Code section 363(b), except to the extent that such order provides for the attachment
17 of DIP Liens or prepetition liens to the proceeds of such sale) or (iii) the entry of an order
18 confirming a plan of reorganization in any of the Chapter 11 Cases and, pursuant to Bankruptcy
19 Code section 1141(d)(4), the Debtors have waived any discharge as to any remaining DIP
20 Obligations or Adequate Protection Obligations. The terms and provisions of this Interim Order
21 and the DIP Documents shall continue in these Chapter 11 Cases and any Successor Cases.

22 30. **Reservation of Rights of the DIP Secured Parties and Prepetition Secured**
23 **Parties.** Except as otherwise expressly set forth in this Interim Order, the entry of this Interim
24 Order is without prejudice to, and does not constitute a waiver of, expressly or implicitly, or
25 otherwise impair, as applicable: (i) any of the rights of any of the Prepetition Secured Parties to
26 seek any other or supplemental relief in respect of the Debtors including the right to seek additional
27 adequate protection; (ii) any of the rights of the DIP Secured Parties or the Prepetition Secured
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1 Parties under the Bankruptcy Code or under non-bankruptcy law, including, without limitation, the
2 right of any of the DIP Secured Parties or the Prepetition Secured Parties to (A) request
3 modification of the automatic stay of Bankruptcy Code section 362, (B) request dismissal of any
4 of the Chapter 11 Cases, conversion of any of the Chapter 11 Cases to cases under chapter 7 or
5 appointment of a chapter 11 trustee or examiner with expanded powers in any of the Chapter 11
6 Cases or (C) seek to propose, subject to the provisions of Bankruptcy Code section 1121, a chapter
7 11 plan or plans; or (iii) any other rights, claims or privileges (whether legal, equitable or
8 otherwise) of any of the DIP Secured Parties or the Prepetition Secured Parties. The delay in or
9 failure of the DIP Secured Parties and/or the Prepetition Secured Parties to seek relief or otherwise
10 exercise their rights and remedies shall not constitute a waiver of any of the DIP Secured Parties'
11 or the Prepetition Secured Parties' rights and remedies under this Interim Order, the DIP
12 Documents, the Prepetition Debt Documents or applicable law, as applicable.

13 31. **Effectiveness.** Subject to the terms hereof, this Interim Order shall constitute
14 findings of fact and conclusions of law and shall take effect and be fully enforceable *nunc pro tunc*
15 to the Petition Date immediately upon entry hereof. Notwithstanding Bankruptcy Rules
16 4001(a)(3), 6004(h), 6006(d), 7062 or 9024, any other Bankruptcy Rule or Rules 62(a) of the
17 Federal Rules of Civil Procedure, this Interim Order shall be immediately effective and enforceable
18 upon its entry and there shall be no stay of execution or effectiveness of this Interim Order.

19 32. **Final Hearing.** The final hearing (the "***Final Hearing***") on the Motion shall be
20 held on July 12, 2024, at 10:30 a.m. (Prevailing Pacific Time). Any party in interest objecting to
21 the relief sought at the Final Hearing or in the Final Order shall file and serve a written objection,
22 which objection shall be served upon: (i) proposed counsel for the Debtors, (a) Allen Overy
23 Shearman Sterling US LLP, 599 Lexington Avenue, New York, NY 10022, Attn: Fredric Sosnick
24 and Sara Coelho; (b) McDonald Carano LLP, 2300 West Sahara Avenue, Suite 1200, Las Vegas,
25 Nevada 89102, Attn: Ryan J. Works; and (c) Torys LLP, 79 Wellington St. W., 30th Floor, Box
26 270, TD South Tower Toronto, Ontario M5K 1N2 Canada, Attn: Tony DeMarinis, Mike Noel,
27 Hanna Singer and Jeremy Opolsky; (ii) the Office of the United States Trustee for Region 17, C.
28

1 Clifton Young Federal Building, 300 Booth Street, Room 3009, Reno, Nevada 85909; (iii) counsel
2 to the DIP Lenders, (a) Akin Gump Strauss Hauer & Feld LLP, One Bryant Park, New York, NY
3 10036, Attn: Brad Kahn.; 2001 K Street NW, Washington D.C. 20006, Attn: Kate Doorley and (b)
4 Shea Larsen PC, 1731 Village Center Circle, Suite 150, Las Vegas, Nevada 89134, Attn: James
5 Patrick Shea and Bart Larsen; (iv) Milbank LLP, as counsel to KfW IPEX-Bank GmbH as
6 administrative agent under the Debtors' prepetition credit agreement, 55 Hudson Yards, New York,
7 NY 10001, Attn: Tyson Lomazow; (v) Bennett Jones LLP, as counsel to Mercuria Investments
8 US, Inc., 3400 One First Canadian Place, P.O. Box 130, Toronto, Ontario M5X 1A4, Canada,
9 Attn: Simon Grant; (vi) White & Case LLP, as counsel to Concord Resources Limited as buyer
10 under the Debtors' prepetition advance payment agreement, 1221 6th Avenue, New York,
11 NY 10020, Attn: Philip Abelson; (vii) Davis, Graham & Stubbs LLP, as counsel to Triple Flag
12 Mining Finance Bermuda Ltd. as purchaser under the Debtors' prepetition purchase and sale
13 agreement; 1550 17th Street, Suite 500, Denver, CO 80202, Attn: Kyler Burgi; (viii) Cleary
14 Gottlieb Steen & Hamilton LLP, as counsel to Pala Investments Limited as prepetition lender, 2
15 London Wall Place, London, EC2Y 5AU, United Kingdom, Attn: Solomon J. Noh; One Liberty
16 Plaza, New York, NY 10006, Attn: Lisa M. Schweitzer; (ix) Alvarez & Marsal Canada Inc., in its
17 capacity as the Information Officer in the Recognition Proceedings, Royal Bank Plaza,
18 South Tower 200 Bay Street, Suite 3501 Toronto ON M5J 2J1 Canada, Attn: Al Hutchens; (x)
19 Kelley Drye & Warren, LLP, as counsel to the DIP Agent, 3 World Trade Center, 175 Greenwich
20 Street, New York, NY 10007, Attn: James S. Carr, Esq.; and (xi) counsel to any statutory committee
21 appointed in these Chapter 11 Cases, in each case so as to be received no later than June 28, 2024,
22 at 11:59 p.m. (Prevailing Pacific Time). If no objections to the entry of the Final Order are timely
23 filed, this Court may enter the Final Order without further notice or a hearing.

24 33. **Headings.** Section headings used herein are for convenience only and are not to
25 affect the construction of or to be taken into consideration in interpreting this Interim Order.

1 In accordance with LR 9021, counsel submitting this **INTERIM ORDER (I)**
2 **AUTHORIZING THE DEBTORS TO (A) OBTAIN POSTPETITION FINANCING, (B)**
3 **GRANT LIENS, INCLUDING SENIOR SECURED PRIMING LIENS AND**
4 **SUPERPRIORITY ADMINISTRATIVE EXPENSE CLAIMS, AND (C) UTILIZE CASH**
5 **COLLATERAL; (II) GRANTING ADEQUATE PROTECTION TO CERTAIN**
6 **PREPETITION SECURED PARTIES; (III) MODIFYING THE AUTOMATIC STAY; (IV)**
7 **SCHEDULING FINAL HEARING; AND (V) GRANTING RELATED RELIEF** certifies that
8 the order accurately reflects the court’s ruling and that (check one):

- 9 The Court has waived the requirement set forth in LR 9021(b)(1).
- 10 No party appeared at the hearing or filed an objection to the motion.
- 11 I have delivered a copy of this proposed order to all counsel who appeared at the
12 hearing, and any unrepresented parties who appeared at the hearing, and each has approved or
13 disapproved the order, or failed to respond, as indicated below [list each party and whether the
party has approved, disapproved, or failed to respond to the document].

14 JARED A. DAY **APPROVED** / ~~DISAPPROVED~~
United States Trustee

16 STEVEN D. JEROME **APPROVED** / ~~DISAPPROVED~~
Attorneys for RAM Enterprise, Inc.

18 KATE DOORLEY **APPROVED** / ~~DISAPPROVED~~
Attorneys for DIP Lenders

20 KYLER BURGI **APPROVED** / ~~DISAPPROVED~~
Attorneys for Triple Flag International, Ltd.

21 I certify that this is a case under Chapter 7 or 13, that I have served a copy of this
22 order with the motion pursuant to LR 9014(g), and that no party has objected to the form or
23 content of the order.

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1 Prepared and submitted by:

2 McDONALD CARANO LLP

3
4 /s/ Ryan J. Works
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18 *Proposed Counsel to the Debtors and Debtors in Possession*

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IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, c. C-36, AS AMENDED

Court File No. CV-24-00722252-00CL

AND IN THE MATTER OF NEVADA COPPER, INC., NEVADA COPPER CORP., 0607792 B.C. LTD., LION
IRON CORP., NC FARMS LLC AND NC DITCH COMPANY LLC

APPLICATION OF NEVADA COPPER, INC. UNDER SECTION 46 OF THE *COMPANIES' CREDITORS
ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

Proceeding commenced at TORONTO

**SUPPELEMENTAL ORDER
(FOREIGN MAIN PROCEEDING)**

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Corp., NC Farms LLC and NC Ditch Company
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